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HAND-WORKING AND DOMESTIC INDUSTRIES OF GERMANY.

BULLETIN

OF THE

DEPARTMENT OF LABOR.

No. 40—MAY, 1902.

ISSUED EVERY OTHER MONTH.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1902.

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CONTENTS.

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No. 40. WASHINGTON. MAY, 1902.

PRESENT CONDITION OF THE HAND-WORKING AND DOMESTIC INDUSTRIES OF GERMANY.

BY HENRY J. HARRIS, PH. D.

The narrowing of the workingman's sphere of activity, which the growth of the factory system and the specialization of modern industrial life have brought about, has frequently led to the expression of the desire for a return to the system of household or small shop production which was formerly the prevailing type in industrial life. In Germany a similar movement has taken place and has aroused an active interest in the welfare of this class of producers who still exist in much larger numbers and occupy a more prominent position in economic life than they do in the United States. This interest has taken the form of measures to encourage and assist the organization and the general and technical education of the class. In addition, it has led to a series of investigations into the number and characteristics of the hand-working producers of the present time, so that we now have more accurate information on this subject for Germany than for other countries. The following pages endeavor to present the salient features of the problem of the hand-working producer in Germany on the basis of these investigations, and with special reference to those phases of the problem which are of interest to Americans.

A study of the economic features of the States forming the German Empire may find a convenient starting point in the close of the Napoleonic period. At that time all the industrial production of the country was practically in the hands of the artisan or handicraft class, who were organized in guilds of more or less strength and community of feeling. Though there is evidence that a small number of what might be termed factories existed, yet the jealousy of the guilds prevented

their competing to any extent in the well-defined fields of the various handicrafts; it is also probable that they produced goods not included in the category of articles controlled by the guild regulations. We may say, then, that the guilds existing at the beginning of the nineteenth century controlled practically all the industries which had grown up since the middle ages. A new epoch of industrial activity began with the restoration of peace at the close of the Napoleonic wars. As the largest and most important of the States now forming the German Empire, Prussia alone will be considered in studying the development of the period in question. Though the change in policy toward the guilds after the downfall of Napoleon did not endanger their existence, it altered their character as purely urban institutions. By compelling them to submit to the general regulations for the whole country, and by making uniform the requirements for the city and the country guilds, the demand for industrial freedom was, theoretically at least, answered affirmatively. Nevertheless, the experience of a few years showed that practically it was impossible for the artisan of the country to compete with the artisan of the town; the old rights as to the markets, the "ban mile" (forbidding outside artisans to approach within a mile of the city), were upheld, while acquisition of the mastership by any but the sons or relatives of masters was contested bitterly. However, in spite of opposition from many sides, conditions, as far as legislation was concerned, were slightly but steadily made easier and freer. By the end of the sixties complete industrial freedom was granted in most of the German States. The transition was made successfully. Fears that the removal of the old restraints would lead some without training to set up in business for themselves, and thus lower the standard of work, proved groundless. The special investigation into the condition of the hand-working industries, made in the summer of 1895, showed that 97 per cent of the independent persons had received a reasonable training in their trades.

It is important to keep in mind the late date at which the old restraints on trade and industry were removed. While England and the United States have had industrial freedom in practically every respect for the whole of the nineteenth century, the Germans have had it for only a generation. The evidence of so recent a transition is seen in the number of establishments in various trades still bearing a close resemblance to the older form of industrial production. To an American it seems strange to regard soap making or rope making as industries where hand production is a marked feature, but this condition is due partially, at least, to the fact that only a few years have elapsed since the traditions of the older methods held sway. In this brief period conditions have changed and opportunities hitherto unknown have sprung up everywhere. Most prominent among the factors changing the whole aspect of Germany are the improved means

of communication. This has made concentration of production possible, and then has followed the series of problems developed by the rise of the so-called factory system.

Of these problems, that concerning the hand-working producer occupies a prominent place in the literature of to-day. It is simply a question as to the survival of the older form of production. The form which a century ago almost monopolized industrial production is now struggling with its younger competitor for the control of production. Briefly stated, the problem is this: How far is production by hand methods capable of competing against other forms? What fields of production does it still control?

Until recently there was a lack of authoritative material on the subject, but since 1895 three valuable contributions have been made: First, the Gewerbezählung, the German industrial census of June 14, 1895; second, the Erhebung über Verhältnisse im Handwerk taken in the summer of 1895, a collection of statistical data on the conditions of the hand worker; and third, the series of volumes issued in the years 1894 to 1901 by the Verein für Socialpolitik, an association somewhat similar to the American Economic Association. The first two of these are official publications of the imperial statistical office. The census includes for the whole of Germany every person engaged in any industrial occupation. The collection of statistical data is an investigation into the trades most closely related to the old occupations controlled by the guilds. Though covering only certain selected districts, a fairly successful effort has been made to have evenly represented the different phases of the large and small towns, the country districts, and the villages. The third and most interesting of the works, that of the Verein für Socialpolitik, is an investigation by private persons into a series of hand-working trades in various localities. That the general standard of the work is so high is owing to the careful editing and supervision by the head of the movement, Karl Bücher, of Leipzig. The authors of the studies were for the most part students of economics at the universities of Leipzig, Berlin, Breslau, Jena, and other towns. Being entirely voluntary, the work is uneven in many respects; the geographical distribution of the industries in the large and small towns and in the rural districts has not been considered so well as might be wished, while several important industries are lacking. The number of contributions is 112; 99 of these treat of single industries in various localities, the others treat of all the industries in a definite locality or are of special character. Most of the studies seek to answer the following questions: What did the hand-working industry formerly produce? What does it now produce? With what degree of success does it compete with other industrial forms? (*a*)

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a Schriften des Vereins für Socialpolitik. Volume 76, page 18.

In connection with the problem whether this industrial form can compete with other forms, is the question whether the type of person evolved by the different forms is higher in the one case or the other. An assumption at the basis of many arguments in favor of the hand-working producer is that he is mentally and morally superior to his competitors. As this assumption has never been proved the question may be put aside as one not relevant to the present problem.

COMPETITION OF INDUSTRIAL FORMS.

At the present time the industrial forms competing with each other may be divided into three classes: First, the factory; second, the house-working or domestic system; third, the hand-working system or system of shop production.

The lack of definite terms in English to describe accurately the phenomena named above is significant as indicating both the looseness of thought on the question and the lack of interest in it. Economic literature on this subject in German has been enriched by the activities of Roscher, Bücher, and Stieda. Bücher has paid special attention to formulating clear definitions and an exact terminology in the industrial field, and so successful have been his efforts that his terms have been generally adopted. In the cyclopedias of Conrad (*a*) and of Elster (*b*) his articles on "Industry" (*Gewerbe*) contain a brief summary of the views expressed at greater length in his other works.

By the term "hand-work production" is understood that type in which the producer himself is the possessor of the means of production, in which he produces for a definite market or known body of consumers, and in which there is but slight use of machinery. Under this form are included artisans, handicraftsmen, and shop producers. The distinctive characteristic is the personal relation between producer and consumer.

Opposed to the above is the "house-working" or "domestic" system. Here an undertaker with capital carries on operations by employing laborers to work in their houses. The conditions vary; sometimes the workman supplies raw materials, tools, and other requisites and receives a specified price for his finished product; sometimes the employer supplies everything needed and simply pays a stipulated price for a certain amount of labor on the raw material. The most usual form is a combination of these, where the employer supplies the most important part of the raw materials and includes payment for the others in the contract price of the finished product. A knowledge of market conditions is essential to the factor or employer, who is usually a merchant rather than one acquainted with the processes of

a Handwörterbuch der Staatswissenschaften, Zweite Auflage, Band IV. Jena, 1900.
b Wörterbuch der Volkswirtschaft, Band I. Jena, 1898.

manufacture. The technological features of this method are similar to those of the hand-working system, and the capital required is invested in fixed forms to a slight degree only. There is here no personal contact between producer and consumer, intermediaries of various kinds being employed.

The "factory system" means production by an undertaker who employs persons to carry on productive operations in his establishment and who must be possessed of both technological and commercial knowledge. Both the domestic and factory systems are capitalistic undertakings—the former, however, using capital not fixed, the latter emphasizing fixed capital. The former is mainly a commercial undertaking, the latter is mainly a series of technological operations which may be termed productive. Combinations of the two forms are frequent; often parts of the operations of production are performed by workmen in their own homes and parts in the rooms of the factory.

These are by no means the only forms of economic production. Other forms which may be mentioned are: "Home work," production in the home by members of the household for family needs; "wage work," production in the house of the consumer by a nonmember of the household who is paid a wage for his labor on the goods provided by the consumer. These two are by no means unimportant, but they do not figure so prominently in the economic life of the present.

PRESENT CONDITIONS.

CHARACTERISTICS OF THE INDUSTRIAL POPULATION.

A brief statement as to the distribution of the industrial population among the various industries is necessary to a clear understanding of present industrial conditions in Germany.

The classification adopted by the industrial census of 1895 includes: Division "A," those engaged in gardening and fishing; division "B," the industrial population proper, i. e., those engaged in the mining industries, the industries proper, and the building trades; division "C," those engaged in trade and transportation. The present study treats of division "B" only.

In this division in 1895 there were 2,146,972 establishments employing 8,000,503 persons. In comparison with the previous industrial census of 1882, there was a decrease of 5.4 per cent in the number of establishments, and an increase in the number of persons of 34.8 per cent. The average number of persons per establishment was 3.7 persons in 1895, as opposed to 2.6 persons in 1882.

According to the number of persons employed in 1895, as shown in the report of the census (*a*), the various industries may be arranged in three classes: First, those industries employing over 900,000 persons;

a Statistik des Deutschen Reichs, Neue Folge. Volume 113, page 102.

second, those employing 500,000 or less than 900,000; and, third, those with less than 500,000 persons. They are as follows:

NUMBER OF PERSONS EMPLOYED IN EACH GROUP OF INDUSTRIAL OCCUPATIONS, 1895.

Groups.	Number of persons employed.
CLASS I.	
Clothing and cleaning	1,390,604
Building trades	1,045,516
Foods and drinks	1,021,490
Textile industries	993,257
CLASS II.	
Metal-working	639,755
Wood and cut materials	598,496
Machinery, instruments, etc	582,672
Stones and earths	558,286
Mining and metallurgy	536,289
CLASS III.	
Leather	160,343
Paper	152,909
Printing	127,867
Chemical	115,231
Lighting materials	57,909
Artistic trades	19,879

There are only a few remarks to be made in summing up this table. In the first class, which includes 55.6 per cent of the total industrial population, the first three groups, which supply the localized wants of food, clothing, and shelter, engage the activities of 43.2 per cent of the industrial population. With but two exceptions (sugar, and clothing other than silk), none of the articles produced by these three groups were exported in sufficient quantities to form 1 per cent of the total exports (*a*), so that the groups may be said to be almost wholly devoted to supplying home wants.

In the second place, the first four groups contain the greater part of the former handicrafts or traditional hand-working trades, such as shoemakers, tailors, carpenters, masons, bakers, brewers, weavers, spinners, etc. These trades have been the scene of the changes which have caused the rise of the problem of the hand-working producer.

The other two classes into which the industries of the Empire have been divided may be roughly characterized as the heavy manufactures and the light manufactures. The remaining portion of the industrial population is distributed with some regularity among them and they produce the majority of the articles which form the exports of the country. For the most part they are of recent growth.

These few suggestions as to the general features of the industrial population will serve as an introduction to the special subject under discussion. In the above table comparison was made on the basis of the number of persons employed in each industry. Before making

a Die Deutsche Volkswirtschaft am Schlusse des 19 Jahrhunderts, bearbeitet im Kaiserlichen Statistischen Amt, Berlin, 1900, page 147.

more detailed comparisons, it is necessary to explain the assumptions involved in this method. Estimating the importance of an industry or of an establishment by the number of persons employed assumes that by comparing the number of persons we can get some idea of the relative strength of the industry or of the establishment. A moment's reflection will show how imperfect is such a comparison. The factors which decide the rate of production are the number of persons employed, the extent to which the division of labor is carried, and the machinery or power used. A comparison of persons, of course, ignores all but the first of these and renders such a comparison faulty to that extent. Unfortunately the German census found itself restricted to giving the number of establishments, the number and description of the employees, and the machinery and motive power used; no attempt was made to give the wages paid, the capital invested, or the value of the product. However, with the excellent classification of establishments according to the number of persons and the use of power, we are able to form some conclusions in regard to the competition going on between the hand-working or artisan producers and the capitalistic forms of production.

DISTRIBUTION OF THE INDUSTRIAL POPULATION.

A distinction between the hand-working and domestic-working establishments is not given in the general returns. A special series of questions was devoted to the domestic-working persons, and separate tables were prepared showing the extent and character of the domestic or house-working system. In the following pages the figures for the hand-working persons or establishments are obtained by deducting the number of domestic-working persons or establishments from the general returns for the industries in question. For instance, when the number of hand-working persons employed in the 1 to 5 person establishments is spoken of, the number is the total for all persons employed in such establishments minus the number employed in the 1 to 5 person domestic-working establishments.

Though the census does not directly give the returns for the hand-working establishments, one class of producers is so clearly hand-producing that it may be considered without preliminary explanation. The total number of establishments (if such a word may be used as meaning an independent industrial unit of such small extent) employing only one person and not using mechanical motive power was 1,237,349 in 1895. (*a*) Deducting from this 272,501 (*b*) the number of one-person domestic-working establishments not using mechanical motive power, we have a remainder of 964,848, which represents the total number of one-person hand-working establishments. Excluding

a Statistik des Deutschen Reichs, Neue Folge. Volume 113, page 112.
b Ibid. Volume 119, page 196.

in the same manner the domestic-working establishments, we find a total of 839,637 establishments employing more than one person or using power. Thus, 53.5 per cent of the total independent industrial establishments were one-person hand-working establishments. As regards the number of the industrial persons, we find that this type of establishment employed 12.1 per cent of the industrial population. Its real strength is much less than these figures would imply, however, because the number of persons indicates almost the total productive capacity of each establishment, while in the other establishments the number of persons employed represents only a fraction of the productive capacity.

The distribution of these establishments among the industrial groups employing over 10 per cent of their personnel in one-person establishments is as follows:

NUMBER OF ONE-PERSON HAND-WORKING ESTABLISHMENTS IN INDUSTRIAL GROUPS EMPLOYING OVER 10 PER CENT OF THEIR PERSONNEL IN SUCH ESTABLISHMENTS, 1895.

[From Statistik des Deutschen Reichs, Neue Folge. Volume 113, pages 112 and 352.]

Groups.	Number of one-person hand-working establishments.	Per cent of persons in one-person hand-working establishments of total persons in each group.
Clothing and cleaning	550,720	39.6
Wood and cut materials	99,802	16.7
Leather	19,919	12.4
Building trades	105,174	10.1

The one-person hand-working establishments in these four groups contain over 60 per cent of the total number of persons employed in all one-person establishments, and the first mentioned, clothing and cleaning, employs three-fifths of the total for these four groups. The total number of one-person hand-working establishments has fallen since 1882 from 1,112,998 (*a*) to 964,848 in 1895, a decrease of 13.3 per cent. The decrease for all establishments was 5.4 per cent, so the decrease of the small establishments must not be considered as unusually high.

Of greater interest, however, is the establishment which will be called the small establishment, or small shop, in whose continued existence greater hopes may be placed. The small shop employing several assistants must be regarded as still an earnest competitor of the factory. Where to locate the line of separation between the factory and the shop is a much disputed question, and one that is practically impossible of exact solution. The first industrial census, which was taken in 1875, divided establishments into two classes, those with six persons or under (including the proprietor) and those with over six. It is

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, pages 35 and 196.

evident that to class together all establishments with over six persons brings elements too dissimilar into combination, and that the conditions of the present time call for a more detailed classification. A classification of establishments with not more than 5 persons as shops; those with from 6 to 50 persons as small factories; and those with over 50 as large factories, while necessarily crude and arbitrary, yet gives a working basis not far from the truth. Restricting the term "shop," or handicraft establishment, to those concerns with not more than five persons is probably erring on the side of conservatism, for in many industries an establishment of 6 to 10 persons can employ little machinery or mechanical motive power. The bookbinder, the cabinet-maker, the garment maker, the shoemaker, the tinsmith, and other occupations do not, as they are carried on in Germany, make use of division of labor to any large extent, and the capital employed is usually small. But, on the other hand, the use of small motors and the greater cheapness of machinery have increased the number of industries in which a small number of employees may use these requisites of the factory. Before taking up the divisions of the industrial population into these classes, it will be remembered that the general figures include also the returns of the domestic-working establishments. The question as to which class the latter belong then arises. As will be seen later, one of the chief characteristics of the domestic-working establishments is that work is carried on in the rooms of the dwelling. This at once excludes the possibility of an establishment of any size, a fact which is supported by the figures for the domestic-working industries. About 80 per cent of the domestic-working establishments were of the single-person type and those employing more than one person averaged but 3.3 persons per establishment. (*a*)

For these reasons all persons classed as domestic workers will be assumed to be employed in establishments with not more than five persons. This is a pure assumption necessitated by the form in which the census presents the figures, but it is very close to the actual facts. Therefore, to secure the number of shop or hand-working persons and establishments, the number of domestic-working persons and establishments are first deducted from the figures for the 1 to 5 person class. After making these deductions, the groups are found to be as follows: The first (those employed in establishments with not over 5 persons) contains 2,733,377 persons, or 34 per cent of the industrial population; the second group (those employed in establishments with 6 to 50 persons) contains 1,902,049 persons, or 24 per cent; the third group (those employed in establishments with over 50 persons) contains 2,907,329 persons, or 36 per cent.(*b*)

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a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 200.
b Ibid., pages 16* and 206*.

As compared with 1882, it is found that the handicraft class has fallen from 47 per cent to 34 per cent of the industrial population; the small factories have increased from 19 per cent to 24 per cent, and the large factories have increased at a still greater rate, from 26 per cent to 36 per cent. The change in proportion is due to the fact that the increase in the total industrial population since 1882 has gone entirely to the small and large factories, while the handicraft producer has changed from only 2,794,329 persons in 1882 to 2,733,377 persons (a decrease of 2.2 per cent) in 1895.(*a*)

DISTRIBUTION OF THE HAND-WORKING POPULATION AMONG THE VARIOUS INDUSTRIES.

The industrial distribution of the small producer can most readily be learned by studying the industries in which he is most numerous and those in which he is least numerous. A question closely allied to these is, whether any industries exist in which the large or small factory has not made its appearance; that is, whether any industrial fields exist where the factory can not compete with the hand worker.

The small producer is most numerous in the groups of industries shown in the table below, each of which has 40 per cent or more of the total number of persons engaged in it occupied in establishments of 1 to 5 persons. The percentages of persons employed in such establishments of total persons in each group are calculated from the figures shown in the census report (*a*), and are as follows:

PER CENT OF PERSONS IN ESTABLISHMENTS OF 1 TO 5 PERSONS OF TOTAL PERSONS IN EACH GROUP, FOR 6 SELECTED GROUPS, 1895.

Groups.	Per cent of persons in establishments of—	
	1 to 5 persons.	6 to 50 persons.
Clothing and cleaning	68.9	13.2
Wood and cut materials	51.6	29.6
Foods and drinks	50.3	23.9
Artistic trades	49.2	33.8
Leather	47.5	24.9
Metal-working	41.4	24.6

The strength of the hand producer is here shown to be in the group clothing and cleaning industries. In this group are placed many of the industries and trades which provide for the localized wants of consumers, such as tailoring, garment making of all kinds, shoemaking, barbers, and laundering. In the group artistic trades are classed painters and sculptors, engravers, stonecutters, and designers, all occupations in which individual taste and skill are important factors. The group foods and drinks is mainly composed of butchers, bakers, and

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, pages 16* and 206*.

confectioners, producers who supply local wants for commodities more or less perishable and for the most part not capable of transportation. In the other three groups, wood and cut materials, leather, and metal industries, is a series of trades in which the small producer is now carrying on a severe struggle for existence against the capitalistic form of production represented by the factory.

In comparing these figures with those of the same groups for 1882, a general decrease is found, and in all there is a shifting of the center of gravity toward the larger establishment. The group wood and cut materials changed so that 20 per cent less of the personnel was employed in the 1 to 5 person establishments in 1895 than in 1882. This was the greatest decrease. The decrease in the other groups ranged between this and 9 per cent, which occurred in the foods and drinks industries. As was the case with the total number of persons employed in the hand-producing establishments, these groups do not show any heavy decrease in the absolute number of persons, but the growth has taken place in the larger establishments. The industries in which the small producer is of least importance are shown in the following table:

PER CENT OF PERSONS IN ESTABLISHMENTS OF 1 TO 5 PERSONS OF TOTAL PERSONS IN EACH GROUP, FOR 5 SELECTED GROUPS, 1895.

Groups.	Per cent of persons in establishments of—	
	1 to 5 persons.	6 to 50 persons.
Mining and metallurgy	9.7	4.1
Stones and earths	12.0	42.5
Printing	14.7	47.7
Lighting materials, soaps, fats, oils, etc	15.0	45.1
Chemical	15.5	22.6

The marked changes since 1882 have taken place in the group stones and earths, in which the proportion of persons employed in 1 to 5 person establishments has decreased from 24.8 per cent to 12 per cent, a fall of over one-half. In the group lighting materials, soaps, fats, oils, etc., the decrease has been from 25.3 per cent to 15 per cent. The decrease has been 0.7 per cent in the mining group, 5.4 per cent in the printing group, and 5.8 per cent in the chemical group.

The last-mentioned series of industries may be characterized as those in which monopolistic features are present and in which production on a large scale permits unusual economies. In the groups mining and metallurgy, and stones and earths, the monopolies due to the possession of mines and quarries are evident. In the group lighting materials, etc., gas works constitute the most numerous part of the whole, and the character of the distributive apparatus of such a plant puts it also into the category of monopolies. In the chemical group the manufacture of explosives and of many chemicals is protected by

patent rights, which brings them under the same category. The apparently large personnel of small establishments in the chemical group arises from the presence of the apothecaries' shops, whose employees form about two-thirds of the 15.5 per cent cited in the table above. In the smelting of ores, the production of glass and porcelain, the manufacture of soaps, the manufacture of matches, and in book printing, the economies of production on a large scale are well known.

The question as to what is the point of greatest possible development of an establishment in each industry here suggests itself. If a number of industries exist in which no large establishment has thus far developed, we may conclude that such industries offer a point of support for the small industrial unit for some time to come.

The absence of the large establishment would show difficulties in the way either of the introduction of machinery or of an extensive division of the labor employed. The number of persons employed in industries with no establishment employing over 10 persons was as follows: (*a*)

Barbers	43,866
Chimney sweeping	8,823
Spinning of unclassified materials	302
Manufacture of rubber toys	4

The number of persons in industries with no establishment employing more than 20 persons was as follows: (*a*)

Violin making	1,782
Cleaning of clothing, etc	829
Preparing crayons, chalk	276
Preparing anatomical and other specimens	211
Whetstone making	143
Making of lightning rods	109

Those in industries with no establishment employing over 50 persons were as follows: (*a*)

Apothecaries	15,519
Hairdressing and wig making	14,693
Painters and sculptors (artists)	7,004
Vinegar making	2,390
Gunsmithing	2,232
Flaying	1,522
Blubber rendering	813
Weaving of unclassified material	786
Preparing of foods for animals	397
Extracting of resin and pitch	318
Silk reeling	232

Few of the above are important in the sense of affording employment to a large number of persons. In the first group, the indus-

a Statistik des Deutschen Reichs, Neue Folge. Volume 113, pages 112 to 129.

tries with no establishment employing more than 10 persons, those classed as barbers number 43,866 persons, and the chimney sweeps 8,823 persons; the others are insignificant. The total number employed by the industries in the list of those having no establishment with more than 20 persons does not reach 4,000. In the third list, those industries having no establishment with more than 50 persons, two of the industries—apothecaries and hairdressers—exceed 10,000 persons; the others are less, while the total does not reach 50,000. That is, the industrial persons employed in the industries in which the large factory has not yet made its appearance number little more than 100,000. Of this number the apothecaries, barbers, and hairdressers form over 70 per cent. The others form such small totals that they are of little importance to the industrial welfare of the country. We may then conclude that, with the exception noted above, there is no industrial occupation of importance at the present time in which the competition of the large factory is not felt in some form or other.

In this conclusion, naturally, much depends on the classification used. It will have to be admitted, however, that the one used in the industrial census is about as elaborate as is consistent with practical purposes. As far as the writer is aware, no criticism has been made against the classification on the score of its not being sufficiently detailed.

In spite of the support which the above statement seems to give to the theorem of the social democracy, that all production on a small scale is doomed to extinction, such a conclusion does not necessarily follow. Because the conditions of the large city have evolved the bakery conducted on the factory plan, the existence of the small bakery is not everywhere placed in jeopardy. Similarly with the blacksmith and wheelwright, the carpenter, the butcher, and others.

The problem is more complicated; the competition varies from the almost complete extermination of the small producer, as for instance in watchmaking, and nail making, to the mere beginnings of the factory system in a new field. The factory may take a part or the whole of the market for an article, or it may take anything from a part to the whole of the production of an article; or it may combine any of these. The factory shoe has taken a part of the market for shoes and also a part of the production of the hand-made shoe; e. g., the last, the uppers, the soles, and the "findings" are more often bought from the factory than made by the small producer himself. Sinzheimer has compared the struggle between the industrial forms to a contest between two countries, the map of which shows that parts of the forces of each have advanced into the opposing territory, the two lines presenting a ragged and irregular front.

GEOGRAPHICAL DISTRIBUTION.

In regard to the possibility of the artisan or small producer avoiding the competition of the larger producer by withdrawing to the rural districts, the statistical data collected in the summer of 1895 afford some information which the industrial census does not give. The figures are the returns of selected districts, not for the whole Empire, but they are fairly typical and are sufficient for the present purpose. For all Prussia the number of artisans (including journeymen and apprentices) per 1,000 of population was 38.8 in 1816, 42.1 in 1834, 52.0 in 1846, and 59.1 in 1861, while in 1895 for the typical districts of the Empire it was 56.9. (*a*) Before the introduction of industrial freedom, in the second decade of this century, the artisan population settled of necessity in the towns; after the Napoleonic wars this condition changed rapidly, and in 1828 the country districts contained 40 per cent of the artisan population and over 50 per cent of the independent masters. By 1858 the following was the relative position of the two districts:

NUMBER OF ARTISANS PER 1,000 POPULATION IN TOWN AND RURAL DISTRICTS, 1858.

Districts.	Total population.	Number of artisans.	
		Total.	Per 1,000 population.
Town	5,340,000	564,845	107.6
Rural	12,490,000	477,668	38.2

Thus, in the towns the artisans were nearly three times as numerous per 1,000 of population as in the rural districts. In 1895 (*b*) the town districts showed 66.8 artisans per 1,000 of population, while the rural districts had risen to 52.2 per 1,000. Even in the towns with between 10,000 and 20,000 inhabitants, where the artisan shows great vitality, the proportion was only 68.4 per 1,000. Worthy of mention is the fact that the density of the artisan population was found to be greatest in towns with from 20,000 to 100,000 population, where it numbered 83.2 per 1,000. The large city is as fatal to the presence of the hand worker or artisan as the very thinly populated country district, for in cities with over 100,000 the proportion was but 46.0 per 1,000.

The 1895 figures show also the variation in the country districts. The following statement gives the number of artisans per 1,000 inhabitants in districts classified according to number of inhabitants per square kilometer (0.3861 square mile). (*b*)

a P. Voigt, "Die Neueste Handwerkerstatistik" in Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft (edited by Gustav Schmoller), 1897, page 1003.

b Erhebung über Verhältnisse im Handwerk, 1895, page 36.

NUMBER OF ARTISANS PER 1,000 INHABITANTS IN DISTRICTS CLASSIFIED ACCORDING TO NUMBER OF INHABITANTS, 1895.

Districts with specified number of inhabitants per square kilometer (0.3861 square mile).	Artisans per 1,000 inhabitants.
More than 200 inhabitants	52.8
150 to 200 inhabitants	57.1
100 to 150 inhabitants	68.9
50 to 100 inhabitants	45.3
25 to 50 inhabitants	34.6
Less than 25 inhabitants	13.5

In these districts the proportion of the artisans increases with the decrease of the population until a density of population equal to 100 to 150 persons per square kilometer (0.3861 square mile) is reached, when the artisans equal 68.9 persons per 1,000 of population, after which there is a decrease.

Although the movement of the artisan is toward the country and the small towns, yet the greater number is still employed in the cities. Since about 50 per cent of the population of Germany is urban, however, this is a normal condition. The importance of the movement to the country districts is brought out more clearly if we compare the number of masters instead of masters and assistants (i. e., journeymen and apprentices). The number of masters per 1,000 of population in the towns was 48 in 1858 and 27.1 in 1895; in the rural districts the number was 23 in 1858 and 26.4 in 1895.(*a*) Taken together with the fact that several very important artisan industries which were formerly so strongly represented in the country, such as weaving, spinning, tanning, and milling, have almost wholly disappeared, the development shows a marked movement away from the stronghold of the factory—the large towns.

On the other hand, the number of masters employing no assistants is more numerous in the country than in the city. The number of assistants per 100 masters in the towns was 115 in 1858 and 158 in 1895; in the rural districts the number was 72 in 1858 and 72 in 1895.(*b*) The city artisan is endeavoring to meet the competition of the larger industrial form by adopting its methods as far as possible; in fact, it is difficult to distinguish in many cases whether some of the establishments are large hand-working establishments or small factories. The country artisan is adopting the opposite course. The rural small establishment shows fewer assistants than that of the city; in the latter 58.5 per cent of the masters employed assistants, in the country only 39.1 per cent did so.(*c*)

a Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft, 1897, page 1010; also Erhebung über Verhältnisse im Handwerk, 1895, page 36.

b Jahrbuch für Gesetzgebung, Verwaltung, und Volkswirtschaft, 1897, page 1009.

c Erhebung über Verhältnisse im Handwerk, 1895, page 38.

In summing up the facts on the preceding pages we find a decrease of 13.3 per cent in the number of one-person hand-working establishments in the thirteen years between the two census dates. But this establishment is the weakest possible productive unit and is for the most part not capable of competing with the capitalistic forms of production. Better hopes may be entertained for the establishments which have been classed together (which include the one-person establishment, however), where the number of persons employed does not exceed five. The percentage of industrial persons employed in such establishments has fallen from 47 per cent in 1882 to 34 per cent in 1895. This represents a distinct decrease in importance as an industrial producer. As to absolute numbers the class shows a decrease of only 2.2 per cent. Though of decreasing importance as a factor in economic life, the hand producer still shows no signs of extinction.

The industries in which the hand worker is engaged show no tendency to change. He remains most numerous in the clothing and cleaning industries, where the domestic worker is also strongly intrenched. The hand worker is practically absent from the field of mining and has been driven from the group stones and earths to a large extent. There is no field of importance which he can claim for his own at present. The competition of the factory has penetrated into practically every industry in which he is engaged.

In reference to his geographical distribution a tendency has been shown to move from the larger to the smaller towns and from the thinly populated districts to points of greater density of population. The artisan who remains in the city and large towns is endeavoring to meet the competition of the rival forms of production by using a larger establishment.

Such are the unconscious efforts of the past to adapt itself to the new conditions which recent economic changes have brought about. This unconscious evolution is naturally slow in operation, and to assist it many propositions have been made which are of varying degrees of merit. A few of the suggested methods of solving the problem of the class are discussed in the following pages.

SUGGESTIONS FOR THE BETTERMENT OF THE HAND-WORKING CLASSES.

USE OF SMALL-POWER MOTORS.

The use of motors of small capacity has so often been advocated as a means of making stronger the competition of the handicraft producer that the subject deserves special attention. First of all, it must be emphasized that the superiority of the large establishment does not rest on its use of mechanical motive power derived from large motors. In many factories there is a distinct tendency to avoid the use of one

large motor and supplant former large motors with several smaller ones. This has even gone so far that in one weaving mill near Chemnitz each loom is supplied with a separate motor. The reasons for this are apparent. Where power must be transmitted over a large area or where interruptions in the use of it are frequent, greater economy is often secured by the use of a small than by the use of a large motor. Where an establishment is dependent on a single motor, either one of equal capacity must be held in reserve for emergencies or the risk of being compelled to cease operations must be taken. When the power of an establishment is secured from several motors, this danger may be eliminated. The motors which would be classed as small in the factory would in general be greater than the hand producer could profitably employ, but it is necessary to emphasize the fact that economy in the use of motors is a small factor in the superiority of a large producer. Engel (*a*) reports as the result of his investigations that in the majority of steam-using establishments the capital invested in the production of power (i. e., boiler and engine) formed a comparatively unimportant part of the whole capital invested. Nevertheless, the use of power by the small producer would indicate the use of machinery in greater or less degree and would give hopes for increased competitive ability on his part.

In connection with the study of the use of motors the accessory establishment has been eliminated, so that the figures given below refer only to the principal establishments (*Hauptbetriebe*). According to the industrial census the largest number of establishments using motors was in the group of industries classed as foods and drinks, where 60,432 establishments used motors. This number includes 47.3 per cent of all industrial motor-using establishments. Following this group comes that of wood and cut materials, in which sawmills are the most prominent establishments, and with much smaller totals are the groups textile industries and metal-working industries. Together these four groups comprise 75.2 per cent of the motor-using establishments. The other groups show no large number of such establishments. (*b*)

A different picture is given when the percentage of motor-using establishments in each group is taken. In the following table, showing the five groups containing the largest proportion of motor-using establishments, are given the per cents of such establishments of total establishments in each group, for the years 1882 and 1895.

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a Zeitalter des Dampfes, page 124.

b Statistik des Deutschen Reichs, Neue Folge. Volume 113, page 396.

PER CENT OF MOTOR-USING ESTABLISHMENTS IN FIVE SELECTED GROUPS, 1882 AND 1895.

[The figures in this table for total and for motor-using establishments for 1882 are taken from Statistik des Deutschen Reichs, Neue Folge, volume 6, pages I. 2 and I. 6; those for 1895 from Statistik des Deutschen Reichs, Neue Folge, volume 113, pages 102, 104, 396, and 404.]

Groups.	1882.			1895.		
	Total establishments.	Motor-using establishments.	Per cent of motor-using of total establishments.	Total establishments.	Motor-using establishments.	Per cent of motor-using of total establishments.
Mining and metallurgy	5,289	2,124	40.2	4,164	1,877	45.1
Lighting materials, fats, oils, etc	7,162	2,243	31.3	6,191	2,248	36.3
Printing	9,612	1,403	14.6	14,193	3,732	26.3
Chemical	9,191	1,686	18.3	10,385	2,506	24.1
Foods and drinks	245,286	62,696	25.6	269,971	60,432	22.4

As a rule, steam is the source of power in the large establishments; steam and gas divide the field almost equally in the small factories, while in the 1 to 5 person establishments the water motor is most common. Steam and gas are, however, also largely used. The greatest amount of power is naturally used in the large factories. The distribution of horsepower in industrial establishments is shown in the following table:

POWER EMPLOYED IN INDUSTRIAL ESTABLISHMENTS, BY SIZE OF ESTABLISHMENT, 1895.

[From Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 137.]

Size of establishment.	Horsepower employed.		
	Total.	Per establishment.	Per person.
1 to 5 persons	414,775	0.2	0.13
6 to 20 persons	358,774	3.2	.33
21 persons or over	2,537,204	58.0	.68

A consideration of the above table shows that over three-quarters of all the horsepower was employed in establishments of 21 persons or over; these establishments employed 46.5 per cent of the industrial population, and each person was assisted by about two-thirds (0.68) of a horsepower. In the 1 to 5 person establishments each person was aided by but 0.13 horsepower. The average for each establishment with over 20 persons was 58 horsepower, while for each 1 to 5 person establishment the average was two-tenths of a horsepower.

Considering further the 1 to 5 person establishments in the various groups, it is found (*a*) that in the group lighting materials, oils, fats, etc., 23.5 per cent of such establishments used motors. In this group the small oil mills play the most prominent part. Next in importance was the group foods and drinks, with 20.6 per cent of motor-using establishments, made up largely of small wheat-milling establishments. In the chemical group, 12.4 per cent of the small establishments used

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 186*.

motors. The most noticeable fact about the groups just mentioned is that they do not contain the occupations in which the problem of the hand producer is most serious. The following groups, which contain the more important hand-working establishments, show how unimportant is the application of power in the small establishments:

AMOUNT OF HORSEPOWER PER 100 PERSONS IN ESTABLISHMENTS OF EACH GROUP CLASSIFIED BY SIZE, FOR SELECTED GROUPS, 1895.

[From Statistik des Deutschen Reichs, Neue Folge, Volume 119, page 138.]

Groups.	Horsepower per 100 persons in establishments of—		
	1 to 5 persons.	6 to 20 persons.	Over 20 persons.
Metal-working	4.0	18.9	43.2
Textile	3.2	41.1	71.7
Leather	5.6	18.9	42.2
Clothing and cleaning	.1	2.1	10.9
Building trades	.5	2.1	7.4

The group clothing and cleaning includes some of the most numerously represented occupations, among them shoemaking and clothing making of various kinds. Although the progress in the manufacture of small motors of high efficiency and reasonable cost in the last ten years has been great, yet the industries for which it was claimed that such motors would hinder the advance of the large establishment have as yet made practically no use of them. Not one-tenth of 1 per cent of the establishments of less than 5 persons in the classes of shoemaking, sewing, tailoring, saddlery, basket makers, and masons, used motors; not 1 per cent of the small establishments in the classes carpenters, wheelwrights, gunsmiths, tinsmiths, butchers, blacksmiths, bakers, watchmakers, bookbinders, coopering, and rope making used motors, and less than 2 per cent of the small establishments employed motors in the classes glaziers, brush makers, cabinetmakers, paper-box makers, coppersmiths, potters, and so on. A few of the trades, such as locksmithing, exceeded 2 per cent, but the majority did not reach that figure.(*a*)

This rather disappointing result is easy to understand. Economy from the use of mechanical motive power is only obtained when the motor is made part of an organic whole of labor-saving tools or machines; such machines are usually too expensive for the limited capital of the small establishment, and even where the purchase of some of the machines is feasible, the other portions of the outfit necessary to secure well-balanced production are out of the reach of those possessing small means. A shoemaker may succeed in securing his sewing machine and a motor, but unless he can provide cutting and soleing machines he gains little from the others. Schneider describes

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 186* et seq.

a typical modern shoe factory (*a*) in which the essential machines, omitting all special and accessory apparatus, number over 30 different kinds. Even in industries where the large factory consists of a duplication of similar units of machines, as in cotton spinning and weaving, the various advantages described by Schulze-Gävernitz (*b*) make the competition of the small producer exceedingly difficult. The advocates of the small motor as a solution of the hand-worker problem also failed to give proper weight to the economic as opposed to the technological advantages of the large producer. Even if it were possible for the small cotton spinner or weaver to secure the same efficiency of production as the larger as far as motors and machines are concerned, there remain still the economic advantages to be overcome. It must also not be overlooked that the process of differentiation is taking place even among those who are in possession of mechanical motive power and supplied with machines. In the past decade two tendencies have shown themselves in connection with the large establishments, which tendencies may be termed specialization and integration. Specialization consists in limiting the production of an establishment to a limited kind or quality of a commodity. The cotton spinner restricts himself to the production of one or a small number of sizes of yarns; the paper manufacturer produces only a few grades of paper; the machine builder produces no longer all kinds of machinery, but limits his product to textile machinery, certain grades of locomotives, and the like. A few words will explain the superiority of such an establishment. Where the production is exactly the same the year round, every technical improvement can be adopted; machinery does not need changing or different sizes to be kept waiting for use; workmen acquire the maximum of skill in the use of the machinery; where models, drawings, and the like are necessary, the changing of them is avoided.

On the other hand, the tendency toward integration is a movement to control production from the raw material to the finished product. The rolling mill at present strives to possess its own ore-reducing works, its own mines for coal and ore. The publishing house Deutsche Verlagsanstalt in Stuttgart (*c*) possesses paper mills, a bindery, and all the necessary plant for producing printed matter. The woodworking establishment at Ludwigshafen receives its lumber in the form of logs directly from the government forests, works it into windows and doors, of which the factory makes a specialty, places them in position, and, if desired, finishes the insertion of the glass.

Such establishments as those described above do not compete with the hand producer in all fields, but the problems which face the pro-

a Die moderne Schuhfabrication, page 119.

b Der Grossbetrieb, 89–110, etc.

c L. Sinzheimer, Über die Grenzen der Weiterbildung des Grossbetriebs, Stuttgart, 1893, page 106 et seq.

ducer who possesses no mechanical motive power are such that much hope can not be placed in the proposition that the solution of the difficulties in the way of the small producer lies in the securing of motive power which shall be as cheap as that of the factory. The strength of the large factory lies in other directions.

INDUSTRIAL ART.

The trades designated as "artistic" trades have many times been claimed as a field in which the hand producer is protected from the competition of factory methods. Their productions are commodities in which æsthetic features are prominent, such as metal work of iron, bronze, gold, silver; furniture of special designs; ceramic wares; textile fabrics; stained glass, and printing of high grades. The awakening as to the value of such work came after the London Exposition of 1851.(*a*) The assumption was that here lay a field in which production of goods with a view solely to their utility and wearing qualities, as was then assumed to be the characteristic of the factory, was impossible, and even at the present time the motive for the efforts of the advocates of industrial art education are based more or less on this assumption.

The industrial census gives little or no assistance in seeking a reply to the question as to the number of persons or establishments engaged in producing what might be termed artistic goods. The group of industries classed as artistic trades includes what might more properly be classed as professions; that is, painters and sculptors, together with engravers, stonecutters, chasers, designers, and miscellaneous. But on this point we have the descriptive work of Hirschfeld, entitled Württemberg's Grossindustrie und Grosshandel, and of Kahn, entitled Münchens Grossindustrie und Grosshandel. In these works are described some large factories whose products must be regarded as of the highest artistic quality. Prominent among such establishments is the bronze-casting establishment of Müller, in Munich, where bronze statuary is the specialty. The description suggests that many of the modern works of this kind can be produced only by the use of factory methods. For instance it required over 100 workmen to perform successfully the operation of casting the statue "Bavaria." The factories of Bruckman, at Heilbronn, and of Hauber, at Schwäbisch Gmünd, produce articles of silver and make use of a great variety of power machinery, as rollers, cutters, and stamping and pressing machinery, as well as engines of some capacity. That all the parts of an article need not be made by hand for it to possess artistic qualities is a point proved by the existence of the apparatus used in these establishments. One of the largest factories in Wurttemberg is the Württembergische Metallwarenfabrik, at Geislingen, which employs

a J. F. Ahrens, Die Reform des Kunstgewerbes, 1886.

over 1,700 persons, and here a large number of designers of exceptional ability are employed. A person of considerable artistic creative ability if engaged in a smaller establishment would find much less opportunity for its exercise than is here given.

In the field of artistic furniture probably the most famous creations of modern times are the articles in the castles of Linderhof, Herrenchiemsee, and Neuschwanstein. Most of the pieces were made at the factory of Pössenbacher, in Munich, where an instance of integration in factory development is shown. The firm possesses its own sawmills and practically controls its products from the log of the tree trunk to the finished article.

In glass staining is an example of an industry in which no mechanical motive power is used. One of the most famous establishments of this kind is that of F. X. Zetter, in Munich. While little machinery is used, the extensive division of labor which is there carried out stamps the product as that of a factory. A competing establishment is that of Mayer, in the same city, where, in addition to glass staining, ecclesiastical sculptural decorations are prepared. The latter firm employs about three hundred workmen.

In artistic printing the size of the machinery and complexity of the modern processes need only be mentioned to show the impossibility of the small establishment ever competing with those possessing the power presses and stereotyping and type-casting machinery.

In some of these trades the amount of capital required is also beyond the possibility of attainment by the small producer. For instance, the manufacture of artistically formed bricks and of ceramic wares requires modern appliances which are only within the reach of establishments controlling large amounts of capital.

The possession of artistic training would undoubtedly be of assistance to the artisan class in raising the standard of their product, but that it would materially lessen the advantages now possessed by their competitors, the large factory, is hardly to be hoped for. It can not be too often repeated that the advantages possessed by the establishment controlling capital in large amounts are of so varied a character that no single improvement in the position of the small establishment will offset them; a complex of conditions must be changed to effect an improvement.

THE COMPULSORY GUILD OR TRADE ASSOCIATION.

As is the custom everywhere in cases where problems affecting the welfare of large classes arise, so also in Germany there has been a demand for the intervention of the State in behalf of the hand-working class. This has taken the form of a demand for a return to certain features of the former State regulation of industry. The plan which has found most advocates is the introduction of a compulsory guild or

trade organization (*Zwangsinnung*) for the hand workers, the characteristics of which would partake somewhat of the nature of the guilds which formerly controlled production. The object of such an association would be to organize the hand-working class to promote solidarity of feeling; to instruct apprentices in their various trades; to assist in the preparation of laws on matters pertaining to the trades; to arrange for systems of arbitration on matters relating to disagreements in the trades; to control peddling; to arrange for tradesmen's inns; and similar matters. (*a*) There is a marked difference of opinion between the workmen themselves on this subject, but the party advocating the measure is numerous and well organized. In fact, they have already secured concessions in the form of a law which partially answers their demands.

The imperial law of July 26, 1897, has for its object the formation of trade associations and of "chambers of hand work" (*Handwerkskammern*), the regulation of the apprentice system, and the control of the title of "master." The law states that upon the petition of a number of hand workers the administrative officials shall proceed to organize an association in that branch of industry in that district, to which all persons carrying on that trade or industry must attach themselves. According to the facts in each case the officials shall decide whether the request is backed by a sufficient number of workers to bring the matter to a vote of those engaged in that trade; if a majority vote for the compulsory association, the officials shall then proceed to organize it in accordance with the more detailed directions which the law provides. But if, in the opinion of the officials, the number of workers is not sufficient to form a vigorous and useful organization, they may refuse to consider the petition. Or if they decide that an existing organization already accomplishes the objects for which a trade association is desired, the officials may also decline to consider the petition.

The membership may be confined to those hand workers only who employ journeymen and assistants. Those who carry on their trades on the factory system are naturally not included in the membership. Where to draw the line of demarcation between the hand-working establishment and the small factory is also left to the officials. However, if factory owners so desire, they may be admitted to membership. Provision is made for the proper representation of the journeymen in all that concerns their interests.

Having been endowed with these privileges the associations are expected to endeavor to accomplish the purposes which were stated above as desired by the advocates of the system, viz, to cultivate a

a See articles "Gewerbegesetzgebung," "Gewerbekammern," "Handwerk," and "Innungen," in Conrad's Handwörterbuch der Staatswissenschaften (Zweite Auflage).

feeling of community of interest; to promote the education of all engaged in the trade; to suggest laws for the protection of trade members; to regulate the settlement of disputes; to found funds for sick and death benefits, and the like. But to protect the consumer, the compulsory trade associations are forbidden to fix prices for goods and services, or to engage in business as an association. In addition, no initiation fee may be exacted of members. Since membership in the association may be compulsory, the dues or contributions from members to cover the expenses of the association must be regarded as a variety of tax, and the rules applied to taxation must in some degree correspond to the rules used here. Hence dues are to be based on the ability to pay, and are not to be uniform for all members. This will undoubtedly make the associations stronger financially.

To increase the influence of the organizations provision is made for central committees of associations of various trades in each district. These committees are to look after common interests, such as arbitrating differences between the trades, establishing inns for the workmen, and publishing bulletins on labor opportunities. Furthermore, the associations, the central committees, and other organizations are allowed by law to form federations (*Innungsverbände*). These may draw up and present statements to the officials (of the State) in regard to labor conditions, make suggestions as to the enforcement of laws, etc. They may also establish funds for benefits of all kinds, since such funds are often beyond the means of small organizations.

To provide further for a centralized organ of the hand workers, article 103 of the law arranges for the organization of "chambers of hand work," whose functions are somewhat similar to those exercised by chambers of commerce in the commercial field. On the one side they are to represent the interests of the small industrial forces of the country generally as distinguished from the representation which the officials of the State, such as factory inspectors, give them; they are to provide for the details of the regulations concerning apprentices; to make yearly reports on matters pertaining to the small industrial producer; to investigate and remedy complaints in regard to examinations of journeymen, and the like. The members of the chambers shall be elected from the compulsory associations and other organizations (trades unions, etc.) which represent the interests of the hand workers. At least half of the members shall be persons who are actually engaged in hand-working trades. This part of the law went into force April 1, 1900. It must be regarded as one of the best features of the law and one which will probably accomplish most to remedy the evils which beset the hand-working class. Prussia has 33 chambers, Bavaria has 8, and so on.

Attached to the law are also provisions concerning the keeping of apprentices and the use of the title of "master." Only those are allowed to have apprentices who are 24 years of age, and have either

passed a journeyman's examination or for five years have followed that occupation or have filled a responsible position requiring a knowledge of the trade. The use of the title of "master" is limited to those who have fulfilled the conditions necessary to the keeping of apprentices and have passed the master's examination.

That part of the law respecting the formation of compulsory associations was put into force in 1898, but as yet no reliable data as to the effect it has had are obtainable. Stieda reports that even in Saxony, where the trade-association idea is strongly rooted, the workers have made but little use of the compulsory feature, and in some cases after compulsory associations have been established they have soon decided to disband.(*a*) In Berlin there has been a complaint that the officials do not assist the workmen sufficiently in their efforts to form organizations.

When it is remembered that the previous laws, allowing, and in some respects encouraging, the formation of voluntary trade associations, have not been changed, it must be admitted that the present legislation offers as comprehensive a system of organization as could be secured without a return to the medieval system of State control. That it does not satisfy the advocates of compulsory organizations was to be expected. Their attitude is based on an entire misconception of the causes which have brought about the decline in the position of the hand worker. It is not the withdrawal of State inspection of products, nor is it the removal of State control of processes of production, of the regulation of the character of those who may engage in trade and industry, or of the many other features of the former strict control of industrial life, which has caused the rise of other forms of production; it is rather the changes in the technical methods of production, which have necessitated the use of large amounts of capital, on the one hand, and the changes in the wants of consumers on the other. This almost elementary proposition does not seem to have been comprehended by the artisans and their leaders in the demand for increased State control, and their exaggerated hopes of improvements from this source will be proportionately disappointed.

But part of the unpleasant position of the hand workers of the present is due to lack of education in general and of technical education in particular. The agitation now going on shows a healthful spirit, in that it indicates an awakening from the former indifference, which has been one of the characteristics of the class. As has been stated elsewhere, the days of the small producer are by no means numbered, and if by organization they can produce a class of intelligent, thorough workmen, and educate the coming generation into a more progressive type of producer, much will have been done to alleviate the evils now existing. In the "chambers of hand work" there will be a body

a Conrad's Handwörterbuch der Staatswissenschaften, Zweite Auflage. Volume IV, page 1110.

of men who can create for themselves a place of influence in public life, and by whose efforts all reasonable demands can secure proper attention.

CONCLUSIONS REGARDING THE HAND-WORKING PRODUCER.

The study of the various phases of the question shows that in but few cases is the hand-working producer entirely eliminated in the struggle with the capitalistic forms of production. In cases where the products are costly enough to allow repairs instead of purchasing new articles, the old producer sinks to the level of a repairer; in other cases, the former producer becomes the retail merchant for the goods which he no longer produces. The watchmaker, the cutler, and the shoemaker are examples of this change; the usual phenomenon is the transition from producer to retailer, with repairing as an accessory source of income.

More frequent than the complete elimination of hand production is the appropriation of parts of the field by the factory taking over certain articles produced formerly by the hand worker. The tinsmith no longer produces the articles from which he receives his name; similarly with the locksmith. Or the factory appropriates certain parts of the production of commodities, notably in the wood and metal working industries, where the application of large power machines is especially profitable, and we find the producer buying his raw material half prepared. The small shoemaker can buy uppers ready for use, the woodworker receives his raw material in the form of boards, laths, or even in a more advanced state of production. The blacksmith does little to the shoes he receives from the factory but fasten them on the foot of the horse. But where the article must be adapted to the individual needs of the consumer the possibility of the hand worker holding his own is stronger than in the cases where this does not hold true.

New forms of raw material are also the frequent cause of the decreased use of the former hand-produced goods of other material. The cork producer now has to compete with the manufacturers of stoppers of glass and metal, which have partially supplanted his wares. The tinwares of former times have been replaced by various kinds of enameled goods, which the tinsmith is unable to produce. Closely allied to this change is that arising from the change of wants of consumers. Modern means of transportation have lessened the field for saddlery; the turner finds that the spinning wheel, the making of which was one of his principal means of support, has been relegated to the attic.

On the other hand, the factory itself offers opportunity for employment for the former hand worker in many directions, though it is at

the cost of his much-prized independence. Large establishments usually find the presence of a carpenter or machinist necessary in their buildings to prevent unnecessary delay in securing repairs. The traction company using horses for motive power employs its own blacksmith and harness maker; canning factories need tinsmiths, and so on for a series of trades.

The conclusion that the hand producer will be exterminated in the competition which is now going on is unfounded. New conditions and new problems have come up which he was unable to solve; the building of a locomotive or ocean steamer is entirely beyond the reach of his ability; modern technology has made possible the cheaper production of certain articles, which has forced him from fields which he formerly occupied, but he is by no means doomed to extinction on that account. The investigations of the Verein für Socialpolitik show that in cases where the hand worker is engaged in the production of goods which are delivered ready for use and which are capable of being classified in certain types, there he must sooner or later give up the contest and withdraw either to the field of retailing or repairing. On the other hand, where the articles must be taken from limited localities on account of the danger of decay or deterioration in quality, or where individual wants must be conformed to, there the small producer may hope to compete more or less successfully with the capitalistic forms of industry. (*a*)

That the small producer is adapting himself with some success to the changed conditions is shown by the statistical data concerning the hand workers which were collected in the summer of 1895. The better, or perhaps the more aggressive type of small producer in the cities is increasing the number of his assistants and adopting the methods of his capitalistic competitors as far as possible. In the small towns and country districts the conditions have not changed to such an extent as in the large cities, and here the lot of the hand worker is easier; the change in consumption, which is the characteristic of this generation, has not affected the rural district so strongly as the cities; the personal contact of producer and consumer is here possible, and where the possession of a small piece of land is connected with the carrying on of a trade, a "livable" income is and will be possible to a good workman for many years to come. The movement toward the rural districts is a recognition of these facts and will lead to an improvement in the average condition of the class.

On the whole, the number of hand producers is not decreasing, and there may be good reasons for Bücher's assertion that the hand worker produces a greater quantity of goods to-day than he ever did before. (*b*)

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a Bücher, Entstehung der Volkswirtschaft (1898), page 190. *b* Ibid., page 162.

The position of the hand worker in the future will be less prominent than it was before the advent of the capitalistic forms of production, but hand work will not be entirely done away with any more than "wage work" has, but it will be given a place in the modern economy where it is better adapted to satisfy certain wants than the other forms of industry. Just as the railway has not decreased the extent of the work to be done in transportation, so it may be expected that after a readjustment of the field has taken place, the position of the hand producer will be an economically stronger one than at present, when the tendencies of the movement are so difficult to understand.

GENERAL FEATURES OF THE DOMESTIC SYSTEM.

Formulating a definition of the house-working or domestic system of industrial production has afforded much play to the scholastic ability of the German writers; but however interesting the topic may be, a simple if somewhat elastic definition, such as that given in a preceding chapter, is sufficient for the purpose at hand.

It is, then, a system in which the production of certain goods is directed by the class of industrial managers or undertakers whose chief qualifications are the possession of capital and a knowledge of market conditions. The aim of the producer using this method is to shift, as much as possible, all risks on those who take contracts from him; that is, on the laborers or subcontractors. In some industries experience has shown that certain risks, such as the purchase of raw materials, must be assumed by the undertaker himself in order to secure certain grades of excellence, but wherever possible the undertaker seeks to be nothing more than an intermediary bringing commodities within reach of the consumer.

In many industries, notably in the making of garments, the undertaker has so successfully shifted the burdens of production on the laborer that the system is almost synonymous with overwork, underpay, and the host of attendant evils which, in our language, are summed up by the term "sweating system." It is not difficult to understand the means whereby the undertaker secures this almost despotic control of the field of production. The primary factor is his knowledge of market conditions, his ability to dispose of his wares at the most advantageous times and places. Equipped with such knowledge and with control of a sufficient amount of capital, he is prepared to undertake the making of commodities by offering the workman a price for the expenditure of a certain amount of labor on raw materials, which latter may be supplied by either party. The workman supplies the place for carrying on the operations and furnishes tools and whatever machinery is needed; he provides heat and light; and in case State regulations require the fulfillment of conditions in regard to health and safety, or insurance against accident and sickness, such

burdens also fall on the worker. Theoretically it may not be impossible for the latter to shift the burden to the undertaker, but in the great majority of cases it is practically so, as will be seen later. Thus in connection with the technological features of production the undertaker need invest no capital in fixed forms, such as machinery, buildings, and ground, and need make no calculations in regard to depreciation, the payment of interest, the making of repairs, etc. His capital is almost wholly circulating; he can stop his expenses at any time by ceasing production. But in the case of factory production, if the loss due to the disorganization of the labor force be disregarded, it is more profitable for the undertaker to continue operations until the loss on the goods produced equals the fixed charges of the plant.

In addition to the technological features just mentioned, under the domestic system the undertaker usually has the advantage of dealing with his laboring force individually. If part of the labor is organized, he can play off the union men against the nonunion men; but as it is difficult for the workmen to come in contact with each other, trade unions are the exceptions, and there are but few aids to the worker in his efforts to force up wages. Unlike the factory producer, the undertaker incurs no danger of social censure for dismissing his laborers in times of industrial or commercial stagnation. To offset these advantages to the undertaker there are but few compensating advantages to the laborer. The domestic worker has more personal freedom than his neighbor, the factory worker, but this freedom consists in little else than the ability to work longer hours. By working at home he can assist in the care of the household and at the same time make use of the labor of the women and children who are unable or unwilling to work in the factory. Beyond this there is no compensation for the many disadvantages he endures; his pay is small, and his hours of labor are long and vary between spells of overwork and idleness. The irregularity of employment is the most crushing feature of his position; the laborer who can not tell whether his wage on the morrow will be something or nothing is in no position to make a bargain with his employer—the possibility of a day without earnings to a man whose income is of the smallest compels him to accept almost any terms.

From this general description of the methods employed in the system one can soon decide upon the kind of industries to which it is applicable. Work done in the dwelling of the laborer is necessarily of such a type that division of labor and the application of machinery afford little scope; the methods are largely the same as those employed by the small shop producer or hand worker. The products must be readily transportable, that they may be taken from the workman's dwelling to the factor's storehouse as easily as possible. The use of woman's labor is also of great importance. In Stieda's discussion of

the characteristics of the system (*a*) he places it as the first consideration. In a few of the industries special skill is necessary, as in the case of the cutlers of Solingen and the musical instrument makers of Saxony. An irregular or seasonal type of industry is also characteristic of the system.

This a priori discussion of the main features of the domestic system of production brings up the questions of what industries are really conducted on the system, of their relative importance to the rest of the industrial field, and of how far this form of production has shown itself able to compete with other industrial forms since 1882, and finally, whether it may be concluded that this form will be able to survive. Before considering these questions a few words are necessary to explain the scope and method of the investigation into the domestic system undertaken by the German industrial census of 1895.

METHODS EMPLOYED IN THE INDUSTRIAL CENSUS OF 1895.

The first thorough inquiry as to the extent and character of the domestic industries of the German Empire was made by the industrial census of 1882. In the census of 1895 the important questions propounded were the same as in 1882, and as the methods of compiling the data were practically identical, comparisons of the results obtained for the two years are valid for all general considerations.

In the household schedule, filled out by each family for the general returns in regard to age, sex, etc., each independent industrial person was asked whether he carried on in his dwelling a business for the account of an outside party (*fremdes Geschäft*).

This included all working at home for factory owners, factors, merchants, or stores of any kind; while to these must be added those working partly on their own account and partly for any of the above named. The phrase "at home" or "in his dwelling" has caused the exclusion of a number of persons working in places other than their homes, but which they rented or leased at their own expense. The best known instance of this class is that of the cutlers of Solingen, who do their grinding and polishing in work places rented by themselves.

In addition to these returns, employers of labor of all kinds were required to make returns both of the number of employees in their establishments and of those working for them outside of their establishments—that is, in work places provided by the workmen themselves.

The returns given in the figures of the industrial census are those for the average for the year, those for the day on which the census was taken having proved unreliable.

As was expected, the totals collected from the two sources do not agree. The returns of the domestic workers themselves show 295,768

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a Schriften des Vereins für Socialpolitik. Volume 39, page 63.

independent domestic workers, 23,153 members of families who assisted them, and 139,063 other assistants, a total of 457,984; while the returns of the employers show a total of 490,711.(*a*) The difference in the point of view of the two returns makes any agreement of the figures out of the question. The employer or factor could give account only of the persons whom he employed directly, while the latter in their turn often employ other workmen who would be returned or not, just as they happened to be employed at the time of the census taking. One workman is also frequently in the employ of several factors at the same time, so that one name may have been counted on several schedules.

On the other hand, many workmen are prejudiced against being classed as domestic workers, and many such have reported themselves as independent workmen. Many of these domestic workers were formerly masters, to whom the loss of their independence represents a descent in the social scale, and their efforts to retain their standing can be easily understood. This has led to a decrease in the number of names in the lists of domestic workers from the returns of the workmen.

There is also a number of industries located in the districts close to the border, in which foreign workmen are employed, and of course these make no returns. This may be partially offset by the fact that German workmen are often employed by foreign factors, who likewise make no reports as to their employees.

Material is not at hand to enable one to make an intelligent estimate of the number of domestic workers missed through these and other causes. Probably the greater number of workmen not reporting as domestic workers would class themselves as hand workers, and since the object in view is to gain some idea of the success of these two classes in their competition with the factory, it does not interfere greatly with the desired end. By using the returns of the workers themselves, we have a total of the number of houseworking persons of which it may be claimed that the lists contain no duplications and that there is no exaggeration of the importance of the class. These returns will be used in the following pages. Only the industries in grand division B—that is, industries proper and the building trades—are considered.

STATUS OF THE DOMESTIC SYSTEM ACCORDING TO THE CENSUS OF 1895.

Attention has already been called to the character of the data respecting special industrial conditions collected by the census. The most important statements offered are those in regard to the number of establishments and the number of persons employed in each group of industries. Establishment is here used in its wide sense as meaning firms or business concerns of all degrees, from the seamstress accept-

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 192.

ing orders from her neighbors to the few large firms employing thousands of workmen. Establishments are classified as principal and accessory, the first being those which the proprietor regards as his principal or main occupation, the latter as his subsidiary or accessory occupation. In order to avoid duplications, persons employed in gainful pursuits were credited only to those establishments in which they reported themselves as having their principal occupation. Therefore, in connection with the number of persons employed, only the principal establishments are considered, as the persons employed in the accessory establishments have already been credited to the principal establishments. The establishments are also arranged according to the number of persons employed, and comprise, first, the one-person establishment, meaning an establishment of one person not using mechanical motive power; and, second, the assistant-using establishment, meaning an establishment employing helpers or using mechanical motive power.

In 1882 the total number of establishments of all kinds working under the domestic system was 386,411, while in 1895 it was 342,487 (*a*), a decrease of 11.4 per cent. Classed according to the number of persons engaged in them, the establishments were as follows:

NUMBER OF DOMESTIC-WORKING ESTABLISHMENTS, BY SIZE, 1882 AND 1895.

Size of establishment.	1882.	1895.
1 person	317,467	272,501
More than 1 person	68,944	69,986
Total	386,411	342,487

According to this table, there was a decrease of 14.2 per cent in the one-person concerns and an increase of 1.5 per cent in the number of concerns where assistants were used.

But more interesting and showing more plainly the conditions of the industries are the statements in regard to the number of persons employed. In 1895 the number of persons employed under the domestic system was 457,748, or 5.7 per cent of the industrial population. (*b*) For 1882 the number was 476,075, or 8 per cent of the industrial population. In other words, there was a decrease, in the thirteen years between the census dates, of 2.3 per cent in the relative proportion of domestic workers to the total industrial population. The totals, however, do not offer a basis for drawing conclusions as to tendencies in the industries employing the domestic system. In the following table are shown the groups of industries classed as the textile, the clothing and cleaning, the wood and cut materials, the metal-working, the foods and drinks, and the machinery and instruments groups. These six

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 196.
b Ibid., page 206*.

groups employ over 95 per cent of the domestic-working population; the remaining 5 per cent are scattered through eight groups and may be omitted in considering the more general features of this part of the population.

NUMBER OF PERSONS EMPLOYED AS DOMESTIC WORKERS, BY SELECTED GROUPS, 1882 AND 1895.

[From Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 206*.]

Groups.	1882.	1895.
Total persons employed in domestic-working establishments	476,075	457,748
Textile	285,102	195,780
Clothing and cleaning	131,861	159,360
Wood and cut materials	19,111	37,140
Metal-working	16,930	20,105
Foods and drinks	8,346	15,918
Machinery and instruments	4,489	9,093

It is seen at once how prominent are the textile industries in this system of production, and furthermore, that of the groups cited, the textile group alone shows a decline in the number of persons employed. In 1882 the persons in the textile industries formed 59.9 per cent of the total, while in 1895 the number of persons engaged in the textile industries composed 42.8 per cent of the total number considered as domestic workers, showing the decreasing importance of the textile group. In absolute numbers the decrease in the textile group was 89,322, and the increase in the number of domestic workers in all the industrial groups other than textile was 70,995. Expressed in relative figures, there was an increase of 37 per cent in the number of domestic workers in the groups outside of the textile. A more definite picture is obtained by studying the proportion which the number of establishments and of persons employed under the domestic system bears to the number of establishments and of persons employed under other systems of production. The following table, condensed from the larger table given in the census reports (*a*), shows the development in this respect since 1882:

PER CENT OF DOMESTIC-WORKING ESTABLISHMENTS AND OF DOMESTIC WORKERS OF TOTAL ESTABLISHMENTS AND INDUSTRIAL WORKERS, RESPECTIVELY, BY SELECTED GROUPS, 1882 AND 1895.

Groups.	Per cent of domestic-working establishments of total establishments.		Per cent of domestic workers of total industrial workers.	
	1882.	1895.	1882.	1895.
All industries	15.1	14.1	8.0	5.7
Textile	57.9	65.3	31.3	19.7
Clothing and cleaning	11.6	13.1	10.5	11.5
Wood and cut materials	5.4	8.9	4.1	6.2
Metal working	5.6	6.2	3.7	3.1
Foods and drinks	2.2	3.2	1.1	1.6
Machinery and instruments	2.7	5.6	1.3	1.6

a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 206*.

This and the preceding table show the important features of the problems connected with the domestic-working system. Out of the groups which include the domestic-working population of the Empire, the six groups given are the only ones numbering over 9,000 persons each in 1895. The concentration of the domestic-working persons has already been touched upon; nearly one-half of the total number are employed in the textile group, or, more exactly, 42.8 per cent of the persons and 47.4 per cent of the establishments; ranking second in the list is the clothing and cleaning group, with 34.8 per cent of the persons and 35.1 per cent of the establishments. This leaves but 22.4 per cent of the persons and 17.5 per cent of the establishments for all other industries.

The decrease in absolute numbers and in relative importance within the groups is practically confined to the textile group. The metal-working group shows a decrease of 0.6 per cent in the proportion of domestic-working persons as compared with the proportion employed in those industries in 1882, but otherwise there is an increase throughout the list—that is, with the exception of the textile industries, the number of domestic-working persons employed in the above-mentioned groups practically all increased proportionately at a rate slightly greater than the rate of increase of the total persons in those groups. For example, the total number of persons engaged in the clothing group increased from 1,259,791 in 1882 to 1,390,604 in 1895, the domestic workers comprising only 10.5 per cent of the total for 1882, as against 11.5 per cent of the much larger total for 1895. On the other hand, the number of establishments has increased at a rate somewhat higher than that of the persons employed. This increase is comparatively uniform throughout all of the groups cited and must be regarded as an evidence of increased importance on the part of the domestic system in those industries. But in the textile groups the fact that the proportion of house-working establishments has increased, while the proportion of persons has decreased, can not be regarded as a healthful sign; it is rather an evidence that the individual establishments are becoming weaker, and since the actual figures also show a slight decrease in the average number of persons for each establishment it may be expected that many of the textile domestic-working establishments will cease to exist in the near future.

The groups not given in the tables above are also worthy of note. Confining our attention to grand division B (the industries proper), it is found that, with the obvious exception of mining, domestic-working establishments are present in all the industrial groups of the Empire. This rather surprising statement must be modified by saying that in the following industries the proportion of domestic-working persons is less than 1 per cent, viz, the groups stones and earths, chemicals, lighting materials, and the building trades. On the whole, these are

industries not possessing the general characteristics already explained as essential for the successful application of the methods of the domestic system.

The four remaining groups not mentioned in the tables (since they employed less than 6,000 persons each) are the groups paper, leather, the printing trades, and the artistic trades. All of these show an increase in the proportion of domestic-working establishments and persons in the thirteen years from 1882 to 1895. The growth in the percentage of house-working persons in the artistic trades is especially prominent, the proportion having advanced from 5.1 per cent in 1882 to 9.2 per cent in 1895.

It has already been stated that the number of domestic-working establishments has decreased to the extent of 11.4 per cent in the period between the two census dates. The decrease took place solely in the one-person establishments, the other establishments showing an increase of 1.5 per cent. But the number of persons gives a truer indication of the state of the domestic industries. Of the 457,748 domestic-working persons 231,540, or about one-half, were employed in single-person establishments in 1895, a decrease of 18.7 per cent since 1882; the increase in the number of persons working in establishments where more than one person was employed amounted to 18.2 per cent. Separating the textile industries from all others, we find that the decreases have occurred in the textile group; increases both in the number of establishments of all kinds and in the number of persons have occurred in practically all the other industries. The increase in the number of persons has for the greater part taken place in the establishments with more than one person. In spite of this advance, the number of persons in domestic-working establishments with more than one person averaged but 3.3 persons, while in all establishments with more than one person the average was 7.4 persons per establishment.

One other kind of domestic-working establishment was enumerated by the census, namely, the family establishment or concern, in which only members of the family were employed to assist the head of the concern. In 1895 the number of such family concerns was 29,717 (*a*) or 42.9 per cent of the total number of domestic-working establishments employing helpers. The number of persons employed was 68,913 or 30.5 per cent of all domestic-working persons in establishments employing helpers. According to the statement in the introduction to the last volume of the census reports (*b*) the number of family concerns was in reality much larger than this, but is not shown because of the very incomplete returns made by industrial persons assisted by members of their families.

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a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 212*.
b Ibid., page 201.

It has already been stated that the possibility of using female labor is an important requisite to the existence of many domestic industries and the figures show that female labor is extensively employed. Of the 457,748 persons engaged in the domestic-working industries, 201,816 or 44.1 per cent were females and 255,932 or 55.9 per cent males. Of the 8,000,503 persons comprising the whole industrial population, 1,558,339 or 19.5 were females. (*a*) The proportion of domestic-working women shows practically no change since 1882. Over half of the one-person establishments were conducted by women, while the women in the establishments employing assistants numbered somewhat over one-third of the persons employed.

Of peculiar interest is the geographical distribution of the domestic industries. According to Weber there is a chain of domestic industries following the mountains so closely that there is no range in central Germany that does not possess its domestic industries. Beginning at the eastern part of the country are the Eulengebirge and Riesengebirge with weaving; connected with this region are glass making, weaving, and clock making in the hills of the Lusatia region. Then come the Erzgebirge with toy making, fringe and lace making, embroidery, clock making, and the manufacture of musical instruments. Through the highlands of Thuringia are the hardware and other products of metal, the toy, and the basket weaving industries. In the eastern spur are hosiery making in Apolda, and the house weaving of Eichsfeld extending to the Harz region. In like manner in the remaining mountain districts are wooden wares, basket wares, toy making, leather goods, watch-case making, cotton and silk weaving, embroidering with pearls, wood carving, cigar making, and shoemaking. In spite of the fact that the mountains were the stronghold of the domestic textile industries, the number of domestic-working persons has decreased only 8,200 since 1882. (*b*) Where the textile industry has been driven out, in many cases other industries have been substituted, such as cigar, clock, and shoe making.

In the other regions there has also been a clearly marked movement. In the villages (communities with a population of 2,000 to 5,000) the proportion of domestic-working persons to the total population has decreased since 1882 from 29.1 to 20.0 per 1,000; in the small towns (population 5,000 to 20,000), from 26.4 to 18.8 per 1,000; in the towns (population 20,000 to 100,000), from 22.1 to 14.9 per 1,000. On the other hand, in the large cities there has been an increase from 21.0 to 21.9 per 1,000. (*c*)

When it is remembered that the number of large cities has increased and that the growth of population in the large cities has been abnor-

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a Statistik des Deutschen Reichs, Neue Folge. Volume 119, page 30*.
b Schriften des Vereins für Socialpolitik. Volume 88, page 27.
c Ibid., page 28.

mally large, the fact that the number of domestic-working persons has more than kept pace with this increase means that there has been a strong movement toward the large cities and away from the small towns. In the mountain regions, however, there is a tendency to remain. The regions which most attract the domestic system are, therefore, the very thinly populated and the very densely populated regions of the country. Such are the main features of the industries using the domestic-working system as gathered from the tables presented by the census reports. As sketched from the bare figures a rough picture of these industries would be as follows:

In 1895 these industries were composed of over 340,000 establishments employing over 450,000 persons, or nearly 6 per cent of the industrial population of the Empire. Since 1882 a decrease of over 11 per cent in the number of establishments and of nearly 4 per cent in the number of persons has occurred. Of the house-working persons nearly 43 per cent were employed in the textile industries, in which group practically all of the decreases just mentioned have taken place. Fifty-three per cent of the population under discussion was employed in the five groups classed as clothing and cleaning, wood and cut materials, metal working, foods and drinks, machinery and instruments. These groups in nearly every case showed an increase both in the number of domestic-working persons employed and in the proportion which those persons bore to the total persons employed in those groups, and it may be concluded that, except in the case of the textile industries, there was a tendency to an increased use of the domestic system.

In the total number of domestic-working establishments there is a decrease, but as this decrease has come from the one-person establishments, we may say that, excluding the textile industries, there is a tendency to the formation of economically stronger productive units. There is also a movement toward the large towns.

To sum up, the thirteen years between the census dates have shown that in nearly 43 per cent of the domestic-working population, those engaged in the textile group of industries, there is a general decrease in both absolute and relative importance, while in the five groups mentioned, comprising the greater portion of the remaining domestic-working population, there is a clear increase in absolute and relative importance. But that the figures alone will give a trustworthy picture of the system can not be maintained. The figures themselves are incomplete, both in regard to what they are supposed to present and in that they give only a part of what must be known in order to form an approximately clear picture of the domestic system of industry.

The census returns give us only the quantitative relations of the domestic-working industries. We must seek other sources for information in regard to the character of the workmen, the quality

of work turned out, the conditions under which the work is performed, and similar questions which are beyond the scope of a census investigation.

The reports of the Verein für Socialpolitik on these subjects do not show a uniform state of affairs in all of the domestic industries. In the majority of the textile establishments, especially in weaving, the persons engaged are on a lower plane than the factory employees. In the garment-making industries the majority of the persons employed have cheapness as their only recommendation; and naturally, the tendency to depress wages finds full scope. On the other hand, workers possessing even a moderate amount of skill are in continual demand (*a*) and secure incomes which compare favorably with those earned by workers under the other forms of production. With the state of affairs now existing in some of these industries, where anyone after a half-hour's practice can perform all the operations almost as well as those engaged in the industry for years, only the worst of conditions may be expected. From this lowest class of workers is found an ascending scale rising up to what may be termed the élite of the domestic workers, such as the makers of musical instruments in various parts of Saxony or the cutlers of Solingen. The better situated workers are by no means few in number, though it is impossible to make any definite statements as to their numbers. They are found in certain parts of the textile, the garment-making, and the cigar-making trades; where a certain amount of skill or taste is required, these workers have found themselves able to compete successfully with the stronger capitalistic form of production.

Similarly with the question of the quality of the work turned out by the domestic system, no general statement can be made, though Weber's claim (*b*) that the quality of the goods produced under this system is inferior to the factory-produced goods has much in its favor; he ignores, however, such classes as embroidering, lace making, musical instruments, and cutlery, where long experience has shown that the wares are of high quality.

In respect to the other conditions existing in the domestic industries, the reports seem strikingly familiar; the evils connected with overcrowding in dwellings, excessively long hours of labor, unwarranted deductions from wages already too low, employment of women and children under unwholesome conditions, all read like the reports on the sweating system in New York, Chicago, or other large cities in other parts of the world. With the recital of the facts has come the demand that the whole system be abolished. The Social Democratic party has been especially energetic in demanding prohibitive legislation against this form of production, and in harmony with this view

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a Schriften des Vereins für Socialpolitik. Volume 88, page 69.
b Ibid., page 24.

are many of the writers upon the subject, as, for example, Weber and Brentano. On the other hand is the view represented by Philippovich, who recognizes the many evils existing in the domestic industries, but who can not see the way clear to a prohibition of work in the home, and seeks the amelioration of the evils through an extension of legislation similar to the factory legislation and the introduction of a stringent sanitary inspection of dwellings. This more moderate view is in harmony with the experience gained from the past history of industrial regulation. There are certain industries where production on a large scale is not possible; where interruptions to production are frequent; where machinery can not be extensively employed, and where the product itself can never count upon a large number of consumers. (*a*) In such industries it will be hardly possible to avoid using the domestic system, and where there is present a large population which is in need of a subsidiary source of income, such as the small farmers in the thinly populated districts and the vast number of women in the large cities, there the conditions are present which make it probable that the system will continue to be used for many years to come.

GENERAL CONCLUSIONS.

In answer to the question as to how far the two weaker systems of production, the hand-working and the domestic systems, have been able to compete with the factory in Germany, we have arrived at the following result: The two weaker systems have succeeded in maintaining their positions in great part; the hand-working system, on the whole, has not decreased in numbers; the domestic system has decreased in the textile industries, it has increased in the other industries where it is represented, and it tends for the most part to an increased influence. The tendency of both forms is toward the use of a larger establishment. The domestic form is moving to the very thinly populated dis tricts and to the large cities, while the hand-working form is settling in the regions between these two extremes.

Such conclusions, it must be remembered, are based wholly on the number of persons employed, the only criterion afforded by the census by which we can compare the various forms. It has been explained how imperfect is this standard, and in view of the fact that the increased number of persons in the factory system is accompanied by a still greater increase in the mechanical aids to production, the conclusions given above may not be taken at their face value. But it is nevertheless true that though the influence of these two forms of production on the total output is not so great as the figures might indicate, yet they are still earnest competitors in the field of production, and the time of their complete absorption by the factory is still far distant, if it is ever to take place.

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a W. Roscher, Ansichten der Volkswirtschaft. Volume 2, page 150.

The importance of the question of the small producer arises from the influence which the technique of production exerts on the structure of society. The noncapitalistic forms of industry produced social classes in which the "captains of industry" were accompanied by but small groups of workmen; the distance between the leader and his dependents was not great and was continually being passed over. The capitalistic forms have increased this gap, have caused the separation of producers into large masses of dependents on the one hand and of a small group of leaders on the other, and have introduced an almost military discipline into economic life. This is but a suggestion of the many influences which events in the world of mechanics have had on the structure of society and which form one of the most important chapters of economic history.

WORKMEN'S COMPENSATION ACTS OF FOREIGN COUNTRIES. (*a*)

BY ADNA F. WEBER.

Modern industrialism rests on machinery; the use of machinery entails frequent injury upon the workman. These two statements explain the prominence in all manufacturing communities of the problem of industrial accidents. The question of providing for injuries sustained by workingmen in the course of their employment has in one form or another occupied the attention of legislatures of all industrial States. In America discussion has heretofore turned upon the enactment of laws designed either to diminish the risk of accident, like the factory laws requiring the guarding of machinery, the automatic car-coupler law, etc., or to enforce the pecuniary responsibility of employers for accidents resulting from the negligence of themselves or their agents. Such employers' liability laws, modifying the common-law rules or principles as to negligence, have been enacted in 25 or more States (*b*); while Europe and Australia, finding liability laws inadequate for the support of maimed laborers and their families, have gone further than the United States and made the employer responsible for all accidents to his employees, with the single exception of injuries caused by the willful misconduct of the victim himself. While the expense of supporting the crippled employees

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a Sources.—Aside from the text of the statutes in official publications of the governments concerned, the best source is the admirable series of monographs by Dr. Zacher, of the German imperial insurance bureau, *Die Arbeiterversicherung im Auslande*, in which he has reproduced the acts in the original text and also in a German translation. French versions of the texts may be found in the quarterly bulletin issued by the permanent committee of the Congrès International des Accidents du Travail et des Assurances Sociales, in M. Bellom's *Lois d'Assurance ouvrière à l'Étranger*, and with the exception of two or three of the earlier statutes in the *Annuaire de la Legislation du Travail*, begun in 1897 by the Belgian Bureau of Labor. English translations of these acts must be sought in scattered publications; the original German law was translated for John Graham Brooks's report in 1893 (Fourth Special Report of the Commissioner of Labor); all other laws, down to 1900, were translated in the Seventeenth Annual Report of the New York Bureau of Labor Statistics (1899). The more recent laws have nowhere been translated in their entirety; but a comprehensive summary of the Dutch act of 1901 was given in the Bulletin of the Department of Labor, No. 34, May, 1901, and summaries of the salient features of the other acts may be found in the monthly Labor Gazette, published by the British Board of Trade.

b Present Status of Employers' Liability in the United States, Bulletin No. 31, November, 1900.

devolves in the first instance upon the employer, it is ultimately borne by the community in the shape of higher prices for the manufactured products of the factories. In order that the employer may thus shift to the consumer the expense of indemnifying his injured working people, he must be able definitely to calculate that expense and reckon it among his regular and usual expenses of production, just as he does the wear and tear of his inanimate machinery and the risks of loss by fire, etc. Hence these foreign statutes prescribe the scale of compensation to be paid for varying degrees of disablement as well as for death, and they are therefore called workmen's compensation acts.

Some sixteen countries or States have thus far enacted such laws, but three of them are omitted from the accompanying tabular summary on account of their narrow scope. Thus the Roumanian act of 1895 applies only to mines, the Grecian act of 1901 to mines and smelting works, and the Russian act of the same year only to government mines. But this legislation does not have universal application even in the thirteen countries listed in the table. It is usually restricted to the more dangerous employment, like mines, quarries, railways and transportation service by land or water, building construction and engineering work, and factories using power machinery or employing more than a stated number (say 5) of workmen. The German law, the pioneer act, is probably the broadest of any, having been successively extended to all callings except the small handicraftsmen, store clerks, and domestic servants. It was entirely revised and the scale of compensation broadened by the act of June 30, 1900, upon which the entries in the table are based.

In some respects the Swiss acts of 1881 and 1887 might be deemed worthy of inclusion here, for they provide for the indemnification of as many accidents as do the acts of Finland and Spain; but they do not establish any fixed scale of compensation for the different injuries, and for that reason are omitted.

The establishment of a definite scale of compensation enables the employer to insure himself against his liabilities with comparative ease. Many States assume that employers will for their own protection insure their employees against accident and have not made insurance compulsory. But other countries, fearing lest the voluntary bankruptcy of the employer or a failure in business may deprive injured workmen of their just compensation, have made such insurance obligatory upon all employers carrying on enterprises specified in the law. Great Britain (*a*) and its colonies, France, Denmark, Sweden, and Spain leave the employer free to take out insurance or not, although they usually grant an injured employee a lien of some kind upon the proprietor's property. Among the countries that require insurance, one

a See The British Workmen's Compensation Act and its Operation, Bulletin No. 31.

From the Seventeenth Report of the New York Bureau of Labor Statistics, as used in the Report of the United States Department of Labor by Adna F. Weber, chief statistician of the New York state department of labor.

Country	When enacted	When in force	Scope of the law	Method of insuring payment of compensation	Compensation (in lieu of wages)												
				Insurance or voluntary or compulsory	Description of compensation in case of fatal injury	Beneficiaries	Waiting period before compensation begins	Percent of daily wage allowed during waiting period	Period for payment of weekly compensation	Total disability		Partial disability					Per cent of annual earnings
										Weekly payment	Limit of payment	Weekly payment	Limit of payment	Schedule in lieu of weekly payments			
														Widow, children under 15 years	Parents or grandparents	Maximum	
Germany	July 6, 1884	1st class, 1885; 2d class, 1886; 3d class, 1887	An accident caused by factory or railway work, or while engaged in a shipping business	Compulsory	Mutual associations (employers' guarantee fund for industries not forming a part of any association)	Employé's widow, children, parents or grandparents	After 13 weeks	66⅔ per cent of wages	66⅔ per cent during life of widow, or until children reach 15 years	A partial wage; how determined not stated	66⅔ per cent	According to facility with which he can find work	66⅔ per cent	Lump sum equal to 15 times annual wage	20 per cent	60 per cent of annual wages	$300 a year, the limit upon which wages are computed
Austria	Jan. 28, 1887	Nov., 1889	Accidents while at work	do	Territorial associations of employers and employés (if workers associated, excluding employers)	Employé's widow, children under 15 years, parents or grandparents	After 4 weeks	66⅔ per cent	66⅔ per cent	According to facility with which he can find work	66⅔ per cent	Each child under 15 years	20 per cent	Each child under 15 years	20 per cent	60 per cent of annual wages	$1,000 a year, the limit upon which wages are computed
Norway	July 23, 1894	July 1, 1895	Accidents caused by factory work or while at work	do	Trade associations, either for a single trade or for several trades	Employé's widow, children under 15 years, parents or grandparents	After 4 weeks	66⅔ per cent, but not less than 60 cents a day	66⅔ per cent during life of widow, or until children reach 15 years	$12.86	do	do	do	Each child under 15 years	20 per cent	do	$747.60 a year maximum
Finland	[illegible]	[illegible]	Accidents caused by a blast or by the explosion of dynamite, without fault of the employé	do	Trade associations. Rest with state railways	Employé's widow, children under 15 years, parents or grandparents	After 3 days	60 per cent, but not more than 90 cents a day	66⅔ per cent during life of widow, or until children reach 15 years	do	do	do	do	Each child under 15 years	20 per cent	60 per cent	Minimum, $68.40 a year; maximum, $137.40 a year
Great Britain	Aug. 6, 1897	Jan. 1, 1898	Accidents attributable to the service and willful misconduct excepted	Voluntary	Insured employés (or their personal representatives) who have joined a benefit society	Individual employé	After 2 weeks	Benefit allowance not stated	Benefit allowance not stated	Benefit dependent upon the funds of the society		Lump sum paid to those who left deposits with the society before the employé's death		Lump sum equal to 3 years' wages, but not less than $250		$487.60	Minimum, $243.80 a year; maximum, $487.60 a year
Denmark	Jan. 1, 1898	Jan. 1, 1898	Accidents caused by willful act or gross negligence of employé	do	Insurance companies	do	After 13 weeks	66⅔ per cent, but not more than 90 cents a day	Each case limited to 260 weeks	66⅔ per cent	$11.69			Lump sum equal to 4 years' wages, but not less than $324.60			Minimum, $97.38 a year; maximum, $487.60 a year.
Italy	Mar. 17, 1898	Jan., 1899	Employment in certain occupations, such as railroading, mining, quarrying, manufacturing, building, etc.	Compulsory	National fund for insurance against accidents to daily attachment laborers and operators. Industry divided by national association of establishments into 10 classes, and the state, through the National Fund for Insuring Workingmen against Accidents, guarantees the payment of the pensions. Rest with mutual insurance societies, municipalities, provincial councils, and private companies	Employés	After 3 days	50 per cent	Each case limited to 90 days					Lump sum equal to 5 years' wages. In default of heirs the indemnity is paid into a special fund and used to pay the liabilities for incident employees, to aid workingmen's provident societies, etc.				Gives a year maximum.
France	Apr. 9, 1898	July 1, 1899	Accidents caused by willful act or gross negligence of the employé	Voluntary	Injured employés (or their claims upon the employer's estate) may insure their claims for compensation with mutual associations, industrial companies, mutual societies, or private companies, and with pension funds established by law	Individual employé	After 4 days	do	Not more than 360 days	50 per cent	Each single child under 16 years, 5 shillings, or 20 per cent, or more than 30 per cent	10 per cent	Each child under 16 years	10 per cent	60 per cent	Daily rate based on wages of 25 francs a day
Spain	Jan. 30, 1900		Accidents caused by carelessness	do			At once	do	Each case limited to 90 days	do	1 year's earnings	If 1 year's earnings is [illegible] in 90 days	6 months' earnings, but if 6 months' earnings is 2 or more, 1 year's earnings	2 years' earnings	Minimum, 20 cents a day
New Zealand	Jan. 9, 1900		Accidents caused by drunkenness, willful misconduct, or willful and deliberate self-mutilation	do	Insured employés or their claims upon the employer's estate		After 2 weeks	Weekly allowance not stated	Weekly allowance not stated	Benefit dependent upon the funds of the society		Lump sum paid to person wholly dependent upon the employé at his death		Lump sum paid to those wholly dependent upon the employé at 3 years' earnings, but not less than $225		$1,460	
South Australia	Jan. 1, 1900		Accidents caused by willful act or gross negligence of employé, and by willful and deliberate self-mutilation	do			After 1 week	50 per cent of weekly wages	50 per cent during life of widow, or until children reach 15 years	Benefit dependent upon the funds of the society		Lump sum paid to those wholly dependent upon the employé at 3 years' earnings, but not less than $225		Lump sum paid to those wholly dependent upon the employé at 3 years' earnings, but not less than $225		$1,460	
Holland	Jan. 1, 1901		Accidents while at work, except in case of willful misconduct, or deliberate self-mutilation, or deliberate attempt to kill oneself, or while under the influence of alcohol	Voluntary	State guarantees of an established pension fund. Rest with mutual insurance societies, municipalities, provincial councils, private companies, and pension funds established by law	Employé's	After 3 days	70 per cent	70 per cent	70 times daily wages				Lump sum equal to 3 years' earnings		$1,460	Gives maximum and minimum pensions.
Sweden	Apr. 21, 1901		Accidents caused by willful act or gross negligence of employé	Voluntary	State guarantees of an established pension fund. Rest with mutual insurance societies, municipalities, provincial councils, private companies, and pension funds established by law	Individual employé	After 30 days	25 per cent	300 days	75 per cent	$25.16 a year	$1,676 a year			$5,032 a year		Maximum, $1,676 a year.	

a Existing benefit societies have been permitted to withdraw from the state fund, and contributions and compensations have been reduced 10 per cent of daily wages from thirty to twenty eight days, so that a workman's annual earnings may be considered as 336 days instead of 300 days. b Widow, 20 per cent; each child under 15 years, 15 per cent; if parents or grandparents are entirely dependent upon the employé, 20 per cent each; if partially dependent upon him, 15 per cent each. c Widow, 20 per cent; each child under 15 years, 15 per cent; if parents or grandparents are entirely dependent upon the employé, 20 per cent each; if partially dependent upon him, 15 per cent each. d Widow, 20 per cent; each child under 15 years, 15 per cent; if parents or grandparents are entirely dependent upon the employé, 20 per cent each; if partially dependent upon him, 15 per cent each. e Widow, 20 per cent; each child under 15 years, 15 per cent; if parents or grandparents are entirely dependent upon the employé, 20 per cent each; 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Country.	When enacted.	When in force.	Scope: All bodily injuries sustained by employees as an incident of their work must be compensated, except—	Insurance voluntary o obligatory.
Germany	July 6, 1884	Oct., 1885 (revised June 30, 1900).	Accidents caused by victim willfully or while engaged in a criminal offense.	Obligatory
Austria	Dec. 28, 1887	Nov., 1889	Substantially as above	do
Norway	July 23, 1894	July 1, 1895	Accidents caused by victim willfully (*med Forsaet*).	do
Finland	Dec. 5, 1895	Jan. 1, 1898	Accidents caused by willful act or gross negligence of victim, willfully by another person than the one intrusted with superintendence of work, and by superior force (*vi major*) or not connected with circumstances of work.	do
Great Britain	Aug. 6, 1897 (*d*)	July 1, 1898 (*d*)	Accidents "attributable to the serious and willful misconduct of victim."	Voluntary
Denmark	Jan. 7, 1898	Jan. 15, 1899	Accidents caused by willful act or gross negligence of victim (*med Forsaet eller grov Magtsomhed*).	do
Italy	Mar. 17, 1898	Oct. 1, 1898	Employer or insurance company liable may proceed by criminal action to secure reimbursement from an injured workman who has caused the accident by willful misconduct.	Obligatory
France	Apr. 9, 1898	July 1, 1899	Accidents caused by willful act of victim. The court may reduce the amount of compensation upon proof that the accident was due to the victim's culpable negligence (*faute inexcusable*).	Voluntary
Spain	Jan. 30, 1900		Accidents caused by *vis major*	do
New Zealand	Oct. 18, 1900		Accidents "proved to be directly attributable to serious and willful misconduct of worker."	do
South Australia	Dec. 5, 1900		Accidents "attributable to serious and willful misconduct of victim."	do
Holland	Jan. 2, 1901		Accidents caused by willful act of victim. If due to his intoxication, he receives only one-half usual allowance, and his heirs or dependents nothing.	Obligatory
Sweden	Apr. 24, 1901		Accidents caused by willful act or gross negligence of victim, or by willful act of third person not exercising authority.	Voluntary

a During first 13 weeks sickness insurance funds (to which workmen make two-thirds c
b The sickness insurance funds (supported in the proportion of two-thirds by workmen
c If victim was not insured in a sickness insurance association, employer has to pay ex
d The British act was extended to agriculture in 1900. *e* The employer has the option

finds various schemes of insurance. Norway, for example, has established a government insurance office and given it a monopoly, while Germany has simply provided for the formation, under government supervision, of employers' mutual insurance associations in the several industries, and each of these associations or corporations is responsible for the compensation of workmen injured in its particular industry.

Most countries that make insurance obligatory also provide that indemnities to workmen shall be paid in the form of a pension rather than in a lump sum. Hence this pension is usually expressed as a percentage of the victim's average wages. Even those countries which discard the pension system usually provide safeguards for the investment of the indemnity. To reproduce in the table such provisions and other details of this legislation is, of course, impracticable.

WORKING OF COMPULSORY CONCILIATION AND ARBITRATION LAWS IN NEW ZEALAND AND VICTORIA.

Report of Royal Commission of Inquiry into the Working of Compulsory Conciliation and Arbitration Laws. 1901. 42 pp. Legislative Assembly, New South Wales.

This report presents the results of an investigation in 1901 into the operations of the compulsory conciliation and arbitration laws in New Zealand and the States of Australia, including also the minimum wage provisions of the factories and shop acts of Victoria. A compulsory arbitration law, similar to the New Zealand law, having been brought before the New South Wales Parliament for enactment, Mr. Alfred P. Backhouse, one of the judges of the district court of New South Wales, was appointed a commissioner to visit the States where such laws were in force and make a personal investigation and report upon their workings. New Zealand and Victoria were visited and many persons were interviewed, especially in New Zealand, the aim being to get the opinions of representative men in all walks of life, who would be at all likely, from their positions, to be able to give information. The report of the commissioner goes quite fully into the details of the working of the laws, but it will be necessary here to give only the conclusions upon the more important points. Following this report the New South Wales Parliament enacted a law, which is printed in full on pages 561 to 574 of this Bulletin. The New Zealand law in effect at the time of the visit of the commissioner was the act of 1900, which came into force on October 20, 1900. It differs in some details from the earlier acts which have been printed in Bulletin 33. The report of the commissioner in regard to New Zealand is in part as follows:

NEW ZEALAND.

BOARDS OF CONCILIATION.

It is admitted on all hands that these boards have not realized the hopes which were expressed by the author of the act that they would do the major portion of the work. Out of 109 cases dealt with by the boards up to the 30th June, 1900, 73 have gone on to the court. There is no doubt that valuable time is lost by suitors before the conciliation board when there is an expressed determination by one party or the other not to take notice of the board's recommendation, whatever it may be, but to proceed to the arbitration court for the sake of the

power to bind possessed by the court and not by the board. With regard to certain members of some boards, charges are made of a much graver character. It is said, with truth I have no doubt, that there are members who are in the habit of fomenting disputes—disputes which they subsequently have to consider—between employers and employees, and that the vicious system of payment by fees for each sitting is partly responsible for the adoption of this course of proceedings. To me it is clear that some members entirely fail to properly appreciate their function and become partisans out and out, rendering their boards boards of irritation, rather than conciliation. The result of this is, that when a reference has to be made from these boards to the court, the parties come to it more antagonistic than they were when the dispute arose.

While these complaints are made, justly, I believe, the boards, taken as a whole, have done much good work, and in some cases they are held in the highest repute. One of the causes of the failure of the boards to realize Mr. Reeves's idea that they would settle 90 per cent of the disputes is, I believe, owing to the objection shown by employers to the carrying out of the provisions of the act. They are ready enough to complain of certain appointments; but they will not themselves take the trouble to select their own representatives, and so to make some of the appointments objected to unnecessary. A large number of employers have not formed unions under the act, and are therefore incapable of taking part in an election. Another cause of the partial want of success of the boards is the holding of the office of chairman by men by neither temperament nor training fit for the position. Another reason, to my mind, of the failure to conciliate is the procedure which is frequently adopted. It is generally the same as that of the court. The party making the claim is asked to prove his case, which the other side is then called on to answer. This method appears to me by no means the best, and from its nature is likely to make each side more aggressive. If the matters in dispute were quietly talked over in an orderly way—it is, of course, necessary that the chairman should have all the powers of the court as to keeping order, and should see that every one is treated with due courtesy, and generally, that the proceedings are properly and decently conducted—the points of difference would be got at, and on these the board could itself call evidence.

While these objections can be made to the boards as at present constituted, and the opinion of the majority of those who have really considered the question is in favor of their abolition, if their constitution and method are not altered, I think a large number of those interested would preserve the principle of conciliation before proceeding to compulsion.

THE COURT OF ARBITRATION.

Generally the greatest satisfaction is expressed with the constitution of this court, its proceedings, and its decisions. Some of its awards in certain particulars are found fault with; but this is ascribed to insufficient information before it, and not in any way to the court's failing to appreciate or not endeavoring to solve the difficult questions put to it. It was suggested that the term of office of the two members, representing the one the employers and the other the employees,

should be longer, so that they might be more independent. Many, in a limitation of the term of office of any member of the court, see a possibility of so making the appointments that the court may be in accord with the ideas of the government for the time being. There does not appear to be the same necessity for experts in the particular industry to sit in the court as there is in the case of the boards. The functions of the two tribunals are distinct. In the case of the boards the fact that some of the members had special knowledge would facilitate conciliation. The representative members of the court, it may be assumed, will always be men with an all-round knowledge of the different industries, and their experience will make them very soon experts to some extent in all industries.

I do not wish to convey in any way that the court does not attempt to conciliate; it is always most zealous in doing so, and frequently brings the parties to an agreement. For this purpose it is not unusual for the president at their request to meet the parties in conference privately. There is one matter about which both sides are very emphatic, viz, the necessity of having a supreme court judge as president of the court. No one, not even one having the status of a judge, no matter from what walk of life he came—no judge appointed merely for the purpose of the act—would be acceptable. The head of the court must be a judge of the supreme court actually taking part in the work of that court. While, no doubt, the judges appreciate this expression of confidence in them, most, if not all of them would like to have nothing to do with the administration of the act, thinking that it involves them in matters in which it would be much better they should not be concerned. The court has a wider jurisdiction and greater powers than perhaps any court in the British dominions. From it there is practically no appeal as the jurisdiction is so far-reaching, and as long as it acts within its jurisdiction no court can restrain it. It hears cases in any way which it prefers as it is not bound by the ordinary rules of evidence; and it interprets its own awards and fixes the penalty for any breach. Great are its powers and equally great are its responsibilities, for on it really depends the successful working of the act. As long as the court recognizes its duties to both sides and wisely exercises its wide powers, it will satisfy the people; but once it fails in doing either it will be looked on as worse than useless. So far, under comparatively easy conditions, it has succeeded in realizing the hopes of its founder.

AWARDS AND THEIR ENFORCEMENT.

So far, with one exception, applications for enforcement have all been against employers. Up to June, 1900, in all about a dozen had been made, but in some cases there was held to be no jurisdiction; some few were dismissed, and in the remainder penalties, in one case amounting to £25 [$121.66], were imposed; in no case has there been any wide-spread defiance of the decision. If it were necessary to enforce the awards against the men, and it came to a question of payment by individuals, I have no reason to doubt that the members of the unions would be quite equal to paying the demands made upon them, and if a deposit were a condition precedent to a right to a reference, that there could be little difficulty in finding the deposit. If a large number of men on either side openly defied the court it is difficult to say

what would happen, and it might be impossible to deal with them. The same might be said if any large body of individuals took exception to any particular legislation and acted in concert to frustrate its objects. It is sufficient for me to say that up to the present no such case has arisen in New Zealand.

THE PRODUCTION OF BOOKS.

The boards have no power to call for books, but the court has. This power was not made the subject of any serious objection by any employer to whom I spoke. It was recognized that they would be asked for only when they were necessary, and that the power merely extended the liability under which persons now are.

APPEARANCE OF THE PARTIES BY ATTORNEY.

Unless all consent the parties can not appear by barrister or solicitor before the boards or court. Rarely is the consent given, and it may be said that they are not allowed. As far as I saw, their interests did not suffer. The cases which I heard were ably conducted by representatives of both sides. All the points were clearly brought out, and sufficient material provided for the court to come to an equitable decision.

THE EFFECT UPON CAPITAL AND INDUSTRY.

Generally, I should say that my investigations showed that, with possibly one exception, industries have not been hampered by the provisions of the act. To attempt to decide whether capital under other conditions would have been invested in particular industries is to undertake a task which has merely to be mentioned to show its impossibility. No doubt general statements were made that this abstention had been practiced, but I found it more than difficult to get specific instances. Any cases which were mentioned, on investigation hardly bore out the view put forward.

It was stated to me that in some cases small industries had been closed, the proprietors of which paid lower than the market rates of wages. Evasion of the awards is still possible, but under the present conditions of the labor market there is I think very little. I was unable to meet with any of the people alluded to, but I have no doubt that the act has affected them. In fact, it is claimed for it that this is one of the greatest benefits from it.

I found it impossible to trace the effect of all the awards, the time at my disposal being too short, but in the principal industries affected I made it my business to see in what state they are. The building trades are a very fair indicator of the general prosperity of a community, and in New Zealand they have been as much involved in disputes since the coming into force of the provisions of the act as any other industry, if not more involved. Generally the effect of the awards has been in favor of the men, granting shorter hours, higher wages, and other benefits. Certainly no one can say that up to the present the contractors have suffered. Building appears to be going on everywhere, and there seems to be more work than the men are able to do.

[In the boot trade] there has not been the advance which one would have expected from the general expansion in other industries. My

conclusion is that the conditions under which the industry is worked are such that, notwithstanding the protection given to it, it is not able to hold its own with foreign competition. In the case of this industry it seems that awards have been made which its conditions do not justify.

EFFECT UPON THE GENERAL PUBLIC.

The effect of the working of the act has been undoubtedly to make the public pay generally more for the products of an industry which has been regulated by a board or the court, when the tariff is high enough, or other conditions occur to prevent foreign competition. In the boot trade, the conditions imposed are such that outside producers are able to leap the tariff fence, and a member of the House of Representatives said to me: "If the present duties are done away with the act may as well be repealed as far as raising wages in the manufacturing industries is concerned." The coal-mine owners agreed upon an advance in price when the cost of hewing was raised, and the flour millers acted similarly. Building has become more expensive, and in this trade the contractors at first made very little opposition to the claims for advance in wages, secure as they considered themselves in the ability to pass on the extra cost of construction to those who required their services. Now, however, they are of opinion that the tendency of the awards is likely to narrow the scope of their business, and they are making efforts to oppose more effectually the demands of the men. Cost of living, particularly rent, is becoming dearer.

SUGGESTIONS AS TO AMENDMENTS.

It was suggested that before there could be a reference there should be a ballot taken of all the men—nonunionist as well as unionist—in the trade. The court has power to award costs, but this is not looked on as sufficient to prevent unnecessary references. The agitator is a person bitterly complained of. It is said, and there is truth in the assertion, that he makes it his business to see that the boards have plenty to do, and frequently appears where relations are satisfactory, and takes care that advantage is taken of the provisions of the act.

Mr. Justice Edwards, who was at one time president of the court, is of opinion that it should have power to reconsider its decisions, and that either party should have a right to apply ex parte for a rehearing, and if sufficient ground is shown that the matter should be reopened, all parties then being represented. In this way the possibility of injustice being done would be minimized.

Provision is generally made in the awards that an advance of wages does not apply to existing contracts, but many, particularly builders, complain that notwithstanding this they are placed in a difficulty, as if a higher rate of wages is paid outside these contracts it is difficult to get workmen for them, and they contend that there should be a lapse of a reasonable interval before an award comes into force. An important demand made was that the Government should undertake the work of seeing that the awards were faithfully carried out, and that the factory inspectors should be given powers with that object. It is said with truth that the men are loth to become informers, there being a natural reluctance to take up the position; and that further those who do make complaint are likely to be told their services are no longer required.

HAVE DISPUTES INCREASED?

Undoubtedly differences have increased; and it stands to reason that in the ordinary course of things they would when means are provided for dealing with disputes other than the extreme step of "striking" or "locking out." Many differences are made public, and the act is set in motion to adjust them, which under the old state of things were not of sufficient importance to justify the taking of either of the measures referred to. Mr. Macgregor is perfectly right when he says that the act is being used for purposes other than those contemplated by its framer. It goes far beyond settling disputes in which but for its provisions there would have been strikes. It is used as a means of fixing the wages and general conditions of labor in many industries, and, without doubt, will eventually be so used in all. While the legitimate increase can be understood and justified, there have been many cases which ought not to have arisen at all. There would certainly appear to be a recognition that the act had been too freely used; but while there has been this strife, I certainly saw none of that bitterness which is generally engendered by a strike even on a small scale. On the contrary, one of the things which struck me was the excellent relations which existed between employers and employees.

EFFECT UPON QUANTITY OF WORK DONE.

Some general complaints were made to me that the effect of unionism—as unionism is encouraged by the act, this matter is pertinent to my inquiry—was to level down rather than up the work of individual men, and two specific instances were given me, one where it was admitted, and the other where it was probable that the quantity of work done was purposely restricted.

STRIKES UNDER THE ACT.

Extravagance of expression is calculated to have the effect of rather weakening than strengthening belief in the beneficent effect of the working of the act. New Zealand has not been free from strikes since 1894; there have been several. None of these have been of any great magnitude, although I understand one caused a loss to the company [employer] of at least £2,000 [$9,733]. As long as labor is not associated there is nothing in the act to prevent strikes, and where labor is associated, the provisions of the act providing a penalty against striking or locking out only apply where an industrial dispute has been referred to the board. A very large number of employees, notwithstanding the privileges given the unions, are not yet associated, and it will be easily understood how what has happened has occurred. It is hardly necessary to point out that the act makes no attempt to insist on an employer's carrying on his business, or on a man's working under a condition which he objects to. All it says is that where a board or the court has interfered, the business, if carried on at all, shall be carried on in the manner prescribed; if the workman works, he shall work under the conditions laid down. There is nothing to prevent a strike in detail; nothing which will preclude a man from asking for his time and leaving.

SUMMARY OF CONCLUSIONS.

Although I have gone fully into matters in which the act appears to be defective, I wish it to be clearly and unmistakably known that the result of my observations is that the act has so far, notwithstanding its faults, been productive of good. I have emphasized what were pointed out to me as its weaknesses, in order that they may be avoided should similar legislation be enacted here. The act has prevented strikes of any magnitude, and has, on the whole, brought about a better relation between employers and employees than would exist if there were no act. It has enabled the increase of wages and the other conditions favorable to the workmen, which under the circumstances of the colony they are entitled to, to be settled without that friction and bitterness of feeling which otherwise might have existed; it has enabled employers, for a time at least, to know with certainty the conditions of production, and therefore to make contracts with the knowledge that they would be able to fulfill them; and indirectly it has tended to a more harmonious feeling among the people generally, which must have worked for the weal of the colony. A very large majority of the employers of labor whom I interviewed were in favor of the principle of the act. One only did I meet who said out and out, "I would rather repeal it and have a straight stand-up fight," while another was doubtful whether the present condition was better than the preexisting. The first, in a letter, has since considerably modified his statement.

The awards generally have been in favor of the workers, and it is therefore easy to understand that the unionists to a man believe in the act, and the nonunionists, as far as my observation goes, find no fault with it.

I found, on the part of the men, none of that opposition to compulsory arbitration which is such a marked feature in England and the United States. This necessarily has relieved me of making more reference to the workers' side of the question than I have done.

But while the effects of the act so far are good, the time has not yet come when it can be said with any certainty that it is a measure which will provide for the solution of all labor troubles. Since it came into operation in New Zealand, everything has been in favor of an increase in the emoluments and of an amelioration of the conditions of labor, and there can not be the slightest doubt that wages would have risen if there had been no act. New Zealand, since the act has been in force (the original act was passed in 1894, but the first case under it did not arise until the middle of 1896), has been advancing on an ever-increasing wave of prosperity, and that prosperity has been largely due to a favorable market for its exports; and it must be borne in mind that these exports are of commodities which, up to the present, have been in no way affected directly by the act, such as wool, frozen mutton, kauri-gum, etc. The market for most of the manufactures is simply within the colony, and it is a market largely guarded for the colonial producer. New Zealand has its unemployed difficulty, for there are wastrels in every community, and misfortune comes on some in the best of times, and it deals with any surplus labor from these or other causes by employing it in cooperative works, giving not only employment but facilities for settling on the land, but the supply of skilled labor does not appear to have been too great up to the pres-

ent. My hope is that depression may be far distant, but when lean years come, as come they must, unless the world's history leads us to a wrong conclusion as to the future; when there will be curtailment instead of expansion; when wages will be cut down instead of being raised, by the awards, then, and not till then, can anyone speak with authority as to whether the principle involved is workable or not. It remains to be seen whether the men will loyally abide by the decision of the court or will turn out only the work which they think the wage justifies. If the award is to be accepted only when in favor of one class, if it is to be flouted when it is against that class. the act had better at once be wiped out of the statute book.

THE FACTORY AND SHOP ACTS OF VICTORIA.

In Bulletin 38 an abstract of the report for 1900 of the chief factory inspector of Victoria contained a summary of the law and with some detail a statement of its operation. As the report of Judge Backhouse in regard to the Victorian law consists largely of detail and little by way of conclusion, it need be touched upon but briefly here.

The provisions of these acts, although to some extent aiming at the same end as the New Zealand law, are quite distinct. The eradication of the sweating evil was the chief object of the lawmakers, and the method adopted was through fixing, by special boards appointed for the purpose, minimum rates of wages, maximum hours of labor, and the number of apprentices and learners for each industry where regulation seemed necessary.

The report of the commissioner in regard to the Victorian law is in part as follows:

> The end and object of these boards was to put an end to the payment of wages which were considered insufficient, and to the doing of work under conditions which were, to say the least, undesirable. That the act has to a large extent put a stop to "sweating" there can be little doubt, but it is very questionable whether, as far at least as some of the workers are concerned, a state of things has not been brought about which is quite as unsatisfactory. There being an excess of labor in Victoria in most industries, one result of the determinations [of the boards] has been that many of the less capable, who can not earn the minimum wage, have gone out of employment altogether, or are working, in contravention of the law, at a lower wage than that fixed. In many occupations the outside worker is practically done away with. In some cases the piecework rate has been fixed so high that it alone prevents any work being given out, but if it were lower it would not alter things much, as, with the employment of machinery and the division of labor in a factory, it is impossible that the outside worker, i. e., one working outside a factory, can hope to compete with the inside worker. In the factories the wage is paid, but a task system, necessitating a certain output, is often in vogue. Victoria has what New Zealand has not—an excess of skilled labor—and the consequence is that the slow worker loses employment and suffers. For him there is no provision, while there is for the aged and infirm, to

which term very properly a wide meaning is given by the chief inspector. But, except in the case of old servants, employers are chary of employing men with a license. There is, first of all, the dislike of both masters and men to asking for the permit, and in the second place the employers do not wish the public to think they are paying wages below the minimum, being afraid that it may imagine a wrong cause for their so doing.

Strong exception is taken by some employers to the power given by Parliament to the minister and the chief inspector. It is contended that the actual working of the act should be outside the possibility of any political influence; that industries to be affected should be named in it, and that licenses should be granted by some person in no way connected with the government of the day. To the New Zealand act the same objections can not be made. Many employers are anxious as to how interstate free trade will affect those industries for which there are boards regulating wages, fearing that they will not be able to compete with employers under no restrictions. Even those who look with complacency on the state of things as it exists at present show great anxiety as to the future. While objections are made, it should be pointed out that many of the new boards were asked for by employers.

THE COMPULSORY ARBITRATION ACT OF NEW SOUTH WALES.

The following Act relating to the establishment of courts of arbitration for the hearing and determination of industrial disputes was assented to December 10, 1901. It was enacted after investigation of the laws in force in New Zealand, Victoria, and the Australian colonies generally:

An act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it; to define the jurisdiction, powers, and procedure of such court; to provide for the enforcement of its awards and orders; and for purposes consequent on or incidental to those objects. [Assented to, 10th December, 1901.]

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This act may be cited as the "Industrial-Arbitration Act, 1901."

2. In this Act, unless the context otherwise shows—

"Branch" means branch of a trade union which is registered or has its principal office outside the State.

"Court" means court of arbitration constituted by this act.

"Employer" means person, firm, company, or corporation employing persons working in any industry, and includes the railway commissioners of New South Wales, the Sydney harbor trust commissioners, the metropolitan board of water supply and sewerage, and the Hunter River and district board of water supply and sewerage.

"Employee" means person employed in any industry.

"Industrial dispute" means dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employees or trade union or branch on the other part, and includes any dispute arising out of an industrial agreement.

"Industrial matters" means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offense; and, without limiting the general nature of the above definition, includes all or any matters relating to—

(a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;

(b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;

(c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;
(d) any established custom or usage of any industry, either generally or in any particular locality;
(e) the interpretation of an industrial agreement.

"Industrial union" means industrial union registered and incorporated under this act.

"Industry" means business, trade, manufacture, undertaking, calling, or employment in which persons of either sex are employed, for hire or reward, and includes the management and working of the Government railways and tramways, the Sydney harbor trust, the metropolitan board of water supply and sewerage, and the Hunter River and district board of water supply and sewerage, but does not include employment in domestic service.

"Lockout" means the closing of a place of employment or the suspension of work by an employer done with a view to compel his employees or to aid another employer in compelling his employees to accept a term or terms of employment.

"Prescribed" means prescribed by this act or any rules or regulations made thereunder.

"Registrar" means registrar appointed under this act.

"Strike" shall mean the cessation of work by a body of employees acting in combination done as a means of enforcing compliance with demands made by them or other employees on employers.

"Trade union" means trade union registered under the Trade-Union Act, 1881.

The registrar.

3. The governor shall appoint a registrar who shall have the powers and perform the duties prescribed and may appoint such officers as may be required to administer this act.

Industrial unions.

4. Where the registrar, or in case of appeal, the court is satisfied that the provisions of this act have been complied with, the registrar shall, in the prescribed manner and form, register as an industrial union—

(a) any person or association of persons or any incorporated company or any association of incorporated companies, or of incorporated companies and persons who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees;
(b) any trade union or association of trade unions;
(c) any branch;

and shall issue a certificate of incorporation, which shall be conclusive evidence in all courts, until canceled, that the requirements of this act in respect of incorporation have been complied with.

5. An application to register an industrial union shall be made in writing in the prescribed form, and shall—

(a) if made by an incorporated company, be signed by a majority of the directors, or, if there are no directors thereof resident in the State, of the managers thereof so resident; and

(b) if made by an association be signed by a majority of the committee of management thereof; and
(c) if made by a trade union or branch, be signed by a majority of the general committee of management thereof.

And the registrar may require such proofs as he thinks necessary of the authority of the said persons to make the said application.

But no industrial union shall be registered unless the registrar is satisfied that the rules or articles of the company, association, trade union, or branch applying to be registered include provisions as to the matters set out in Schedule One. And any application to register an industrial union may be refused if another industrial union to which the applicants might conveniently belong has already been registered. And no branch shall be registered unless it is a bona fide branch of a trade union and of sufficient importance to be registered separately.

The governor may from time to time, by regulations made under this act, alter, repeal, or amend the said Schedule.

6. Any company, association, trade union, or branch applying to be registered as an industrial union may, on application to the governor, upon the recommendation of the registrar, obtain leave to adopt, and may thereupon adopt, any rules dealing with the matters mentioned in Schedule One, or in any regulations made under the last preceding section, as part of the rules of the company, association, union, or branch; and upon such leave being obtained, the said rules, when adopted in pursuance of this section, shall, notwithstanding any memorandum or articles of association or any rules of such company, association, union, or branch, become binding on all members of the same.

7. (1) Upon the issue of a certificate of incorporation, the members for the time being of the company, association, trade union, or branch incorporated in the industrial union shall, until the registration and incorporation of the union is canceled in pursuance of this act be for the purposes of this act a body corporate by the name mentioned in such certificate, and shall have for the purposes of this act perpetual succession and a common seal.

(2) An industrial union—

(a) may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property: Provided that nothing in this act shall render an industrial union liable to be sued, or the property of an industrial union, or of any member thereof, liable to be taken in execution by any process in law other than in pursuance of this act or in respect of obligations incurred in the exercise of rights and powers conferred by this act;
(b) shall forward to the registrar, subject to the prescribed penalties, at the prescribed dates, and verified in the prescribed manner, lists of its members and copies of its rules, and copies of industrial agreements to which it is a party.

8. If it appears to the registrar—

(a) that for any reasons which appear to him to be good the registration of an industrial union ought to be canceled; or
(b) that an industrial union has been registered erroneously or by mistake; or
(c) that the provisions of the rules, articles, or regulations of the union as to any of the matters mentioned in Schedule One as amended under this act are inadequate, or have not bona fide been observed; or

(d) that the proper authority of the union willfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union; or

(e) that the accounts of the union have not been audited in pursuance of the rules, articles, or regulations, or that the accounts of the union or of the auditor do not disclose the true financial position of the union;

(f) that any industrial union has willfully neglected to obey any order of the court;

he shall make application to the court for the cancellation of the registration of the union, giving notice thereof to the secretary of the union.

The court shall hear the said application, and if it is of opinion that the registration of the union should be canceled, it shall so order, and thereupon the registration and incorporation of the union under this act shall be void:

Provided that such cancellation shall not relieve the industrial union, or any member thereof, from the obligation of any industrial agreement or award or order of the court, nor from any penalty or liability incurred prior to such cancellation.

9. During the pendency of any reference to the court no application for the cancellation of the registration of an industrial union shall be made or received, and no registration or discharge of the membership of any industrial union or of any company, association, trade union or branch, constituting an industrial union, shall have effect.

10. Nothing in this act shall prevent a transfer of shares in any registered company, or in any association which is, or is a member of, an industrial union:

Provided that no such transfer shall relieve the transferer from any liability incurred by him under this act up to the date of such transfer.

11. Industrial unions shall be classified by the registrar as industrial unions of employers and industrial unions of employees, and the certificate of incorporation shall state the class of the industrial union mentioned therein.

12. Every dispute between a member of an industrial union and such union shall be decided in the manner directed by the rules of such union; and the president of the court, on the application of the trustees or other officers authorized to sue on behalf of such union, may order the payment by any member of any fine, penalty, or subscription payable in pursuance of the rules aforesaid, or any contribution to a penalty incurred or money payable by the union under an award or order of the court:

Provided that no such contribution shall exceed the sum of ten pounds [$48.67].

Industrial agreements.

13. Any industrial union may make an agreement in writing relating to any industrial matter—

(a) with another industrial union; or

(b) with an employer;

which, if it is made for a specified term not exceeding three years from the making of the agreement, and if a copy thereof is filed with the registrar, shall be or become an industrial agreement within the meaning of this act.

14. (1) An industrial agreement may be rescinded by agreement made in writing by the parties thereto and filed with the registrar, or may be varied by another industrial agreement so made and filed.

If not so rescinded the agreement or varied agreement shall be in force for the term specified in the agreement, and unless any party thereto gives to the registrar, at least one month before the expiration of such term, a notice in writing of intention to terminate the agreement or varied agreement at such expiration, the agreement or varied agreement shall continue in force until the expiration of one month after notice in writing of intention to terminate it has been given to the registrar by any party thereto.

(2) Every industrial agreement or varied agreement shall be binding—

(a) on the parties thereto during the currency of the agreement or varied agreement, and on such parties in respect of anything done or suffered under or by virtue of it during its currency;

(b) on every person during the currency of the agreement or varied agreement while he is a member of any industrial union which is a party thereto, and on every person in respect of anything done or suffered under or by virtue of it during its currency and while he is such member.

15. An industrial agreement as between the parties bound by the same shall have the same effect and may be enforced in the same way as an award of the court of arbitration, and the court shall have full and exclusive jurisdiction in respect thereof.

Constitution of the court of arbitration.

16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this act. The court shall be a court of record and shall have a seal, which shall be judicially noticed.

The court shall consist of a president and two members.

17. The president of the court shall be a judge of the supreme court to be named by the governor. The governor may on the request of the president appoint a judge of the supreme court as deputy president, to act in respect of any matter mentioned in his appointment; and the said deputy shall, in respect of the said matter, have all the rights, powers, jurisdictions, and privileges of the president under this act.

The two members of the court shall be appointed by the governor, one from among the persons recommended in the manner and subject to the conditions prescribed in Schedule Two by a body of delegates from industrial unions of employers, and the other from among the persons recommended as aforesaid by a body of delegates from industrial unions of employees; but, if any such body fails to make such recommendation, the governor may appoint such person as he thinks fit.

18. The president and members of the court shall be appointed as soon as practicable after the commencement of this act, and every three years after such first appointment, and shall hold office until the time of the next triennial appointment to the office, but the members shall be eligible for reappointment.

19. Any vacancy in the office of member of the court occasioned by

death, resignation, or removal from office shall be filled by appointment on such recommendation as aforesaid, and the person so appointed shall hold office until the time of the next triennial appointment, but shall be eligible for reappointment.

Where a member of the court is absent from his office by reason of illness or other cause, his office shall be filled by appointment as aforesaid, and the person so appointed shall hold office during such absence.

20. During his term of office the president or a member of the court shall, except where otherwise provided in this act, be liable to removal from office in such manner and upon such grounds only as a supreme court judge is by law liable to be removed from his office.

21. The members of the court shall be paid a salary of seven hundred and fifty pounds [$3,649.88] per annum each, and such remuneration for expenses while traveling and while holding views and inspections as may be prescribed.

22. The court may be constituted by the president or any member for the purpose of being adjourned.

23. When an industrial dispute involving technical questions is referred to it, the court may appoint two assessors for the purpose of advising it on such questions.

One of such assessors shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employers, and the other shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employees.

If default is made in nominating any of such assessors, or if the parties consent, the court may appoint an assessor or assessors without any nomination.

Disqualifications for office.

24. The following persons shall be disqualified from being recommended or appointed, or holding office as a member of the court of arbitration—

(a) a bankrupt who has not obtained his certificate of discharge;
(b) any person of unsound mind;
(c) an alien.

25. The governor shall remove from office any member of the court who becomes disqualified under the last preceding section, or is proved to the satisfaction of the supreme court, or a judge thereof, to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award, or to be guilty of any offense under sections twenty-six and twenty-seven of this act.

Jurisdiction and procedure of the court.

26. The court shall have jurisdiction and power—

(a) on reference in pursuance of this act to hear and determine, according to equity and good conscience—
  (i) any industrial dispute; or
  (ii) any industrial matter referred to it by an industrial union or by the registrar;
  (iii) any application under this act;
(b) to make any order or award or give any direction in pursuance of such hearing or determination;

(c) subject to the approval of the governor to make rules regulating the practice and procedure of the court, and more especially but not so as to limit the generality of its powers in the premises with reference to;
(i) the times and places of sitting;
(ii) the summoning of parties and witnesses;
(iii) the persons by whom and conditions upon which parties may be represented;
(iv) the rules of evidence;
(v) the enforcement of its orders;
(vi) allowances to witnesses, costs, court fees;
(vii) generally regulating the procedure of the court;
(viii) appeals under this act;
(ix) the reference of any matter;
(d) to dismiss any matter at any stage of the proceedings where it thinks the dispute trivial;
(e) to dismiss any proceeding without giving a decision, where, in the opinion of the court, an amicable settlement can and should be brought about;
(f) to order any party to pay to any other party such costs and expenses (including expenses of witnesses) as may be specified in the order, and at any time to vary such order; but no costs shall be allowed for the attendance before the court of any counsel, solicitor, or agent for any party;
(g) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
(i) to direct parties to be joined or struck out;
(ii) to amend or waive any error or defect in the proceedings;
(iii) to extend the time within which anything is to be done by any party, whether within or after the prescribed time; and
(iv) generally to give such directions as are deemed necessary or expedient in the premises;
(h) to proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended;
(i) to sit in any place for the hearing and determining of any matter lawfully before it; provided that, as far as practicable, the court shall sit in the locality within which the subject-matter of the proceeding before it rose;
(j) on its own motion, or at the request of any of the parties to the dispute, to direct that the proceedings of the court be conducted in private, and that all persons other than the parties, their representatives, and any witnesses under examination shall withdraw from the court;
(k) to adjourn any proceeding to any time and place;
(l) to refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and to accept the report of such experts as evidence;
(m) to exercise in respect of the summoning, sending for, and examination of witnesses and documents, and in respect of persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and forty of the Parliamentary electorates and elections act of 1893 conferred

on the committee of elections and qualifications constituted by that act; provided, that no party to an industrial dispute shall be required to produce his books except by order of the president, and that such books when produced shall not, except by the consent of the party producing them, be inspected by anyone except the president or members of the court, who shall not divulge the contents thereof under penalty of dismissal from office;

(n) to deal with all offenses and enforce all orders under this act;

(o) at any time to vary its own orders and reopen any reference;

(p) to admit and call for such evidence as in good conscience it thinks to be the best available, whether strictly legal evidence or not; provided, that any question as to the admissibility of evidence shall be decided by the president alone.

27. The president and each member of the court shall be sworn in the manner and before the persons prescribed, before entering upon the hearing of any dispute, not to disclose to any person whatsoever any matters or evidence relating to any trade secret or to the profits or financial position of any witness or party, and shall be liable to a penalty not exceeding five hundred pounds [$2,433.25] and dismissal from office for a violation of such oath, and shall at the request of any party or witness hear such evidence in camera.

28. No matter within the jurisdiction of the court may be referred to the court, nor may any application to the court be made except by an industrial union or by any person affected or aggrieved by an order of the court.

But no industrial dispute shall be referred to the court for determination, and no application shall be made to the court for the enforcement of any award of the court by an industrial union, except in pursuance of—

(a) a resolution passed by the majority of the members present at a meeting of such union specially summoned by notice sent by post to each member or given in the manner prescribed by rules of the union, and stating the nature of the proposal to be submitted to the meeting; or

(b) where in the opinion of the registrar it is impracticable to summon a meeting of all the members of the union, a resolution passed, in accordance with rules made by the court in that behalf, by a majority of the officers of the union specified in such rules.

Notwithstanding anything in this section, the registrar may—

(1) Inform the court of any breach of this act or of any order or award of the court.

(2) Refer to the court an industrial dispute when the parties thereto or some or one of them are or is not an industrial union.

29. Any union or person entitled to refer an industrial dispute, or any matter, to the court, may make application to the registrar in the prescribed form.

30. (1) Any party to a reference may at any time take out a summons, in the form prescribed by the rules of the court, returnable before the president of the court sitting in chambers.

At the hearing of the summons, the president may make such order as may be just with respect to all the interlocutory proceedings to be

taken before the hearing by the court of the dispute, and as to the costs thereof, and with respect to the issues to be submitted to the court, the persons to be served with notice of the proceedings of the court, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions, examination of witnesses, and the place and mode of hearing. The court may at the hearing of any reference revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2) In addition to the powers conferred by this section, the president of the court sitting in chambers for the purpose of administering this act shall have all the powers of a judge of the supreme court sitting in chambers for the purpose of any matter before that court.

31. The court and, on being authorized in writing by the court, any member or officer of the court or any other person may at any time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, wherein or in respect of which any industry is carried on or any work is being or has been done or commenced, or any matter or thing is taking or has taken place, which has been made the subject of a reference to the court, and inspect and view any work, material, machinery, appliances, or article therein.

And any person who hinders or obstructs the court, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offense be liable to a penalty not exceeding five pounds [$24.33], and every officer of the court or such other person so authorized as aforesaid shall be required to take the like oath as is prescribed in section 27 in the manner and before the persons prescribed, and shall be liable to a like penalty for the violation thereof.

32. Proceedings in the court shall not be removable to any other court by certiorari or otherwise; and no award, order, or proceeding of the court shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

33. No proceedings in the court shall abate by reason of the death of any party, but such proceedings may, by order of the court, be continued on such terms as the court thinks fit by or against the legal representative of such party.

34. Whoever—

(a) before a reasonable time has elapsed for a reference to the court of the matter in dispute; or

(b) during the pendency of any proceedings in the court in relation to an industrial dispute,

(1) does any act or thing in the nature of a lockout or strike; or suspends or discontinues employment or work in any industry; or

(2) instigates to or aids in any of the above-mentioned acts, shall be guilty of a misdemeanor, and upon conviction be liable to a fine not exceeding one thousand pounds [$4,866.50], or imprisonment not exceeding two months;

Provided that nothing in this section shall prohibit the suspension or

discontinuance of any industry or the working of any persons therein for any other good cause.

And provided that no prosecution under this section shall be begun except by leave of the court.

35. If an employer dismisses from his employment any employee by reason merely of the fact that the employee is a member of an industrial union, or is entitled to the benefit of an award, order, or agreement, such employer shall be liable to a penalty not exceeding twenty pounds [$97.33] for each employee so dismissed.

In every case it shall lie on the employer to satisfy the court that such employee was so dismissed by reason of some facts other than those above mentioned in this section: Provided that no proceedings shall be begun under this section except by leave of the court.

36. The court in its award or by order made on the application of any party to the proceedings before it, at any time in the period during which the award is binding, may—

(a) prescribe a minimum rate of wages or other remuneration, with provision for the fixing in such manner and subject to such conditions as may be specified in the award or order, by some tribunal specified in the award or order, of a lower rate, in the case of employees who are unable to earn the prescribed minimum; and

(b) direct that as between members of an industrial union of employees and other persons, offering their labor at the same time, such members shall be employed in preference to such other persons, other things being equal, and appoint a tribunal to finally decide in what cases an employer to whom any such direction applies may employ a person who is not a member of any such union or branch.

37. In any proceeding before it the court may do all or any of the following things with a view to the enforcement of its award, order, or direction—

(1) declare that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter, shall be a common rule of an industry affected by the proceeding;

(2) direct within what limits of area and subject to what conditions and exceptions such common rule shall be binding upon persons engaged in the said industry, whether as employer or as employee, and whether members of an industrial union or not;

(3) fix penalties for any breach or nonobservance of such common rule so declared as aforesaid, and specify to whom the same shall be paid;

(4) grant an injunction to restrain any person from breaking or nonobserving any order, award, or direction of the court;

(5) order the cancellation of the registration of an industrial union;

(6) order that any member of an industrial union shall cease to be a member thereof from a date and for a period to be named in the said order;

(7) fix penalties for a breach or nonobservance of any term of an award, order, or direction not exceeding five hundred pounds [$2,433.25] in the case of an industrial union, or five pounds [$24.33] in the case of any individual member of the said union, and specify the persons to whom such penalty shall be paid;

(8) impose a fine not exceeding five hundred pounds [$2,433.25] for any breach or nonobservance of an award, order, or direction by a person bound by such award, order, or direction who is not a member of an industrial union;

and all fines and penalties for any breach of an award, order, or direction of the court may be sued for and recovered either—

(a) in the court by the persons entitled to receive the same; or

(b) before a stipendiary or police magistrate, sitting alone as a court of petty sessions, under the Small Debts Recovery Act, 1899, notwithstanding any limitation as to amount contained in that act, by an inspector appointed under the Factories and Shops Act of 1896, or any act amending the same:

Provided that any appeal from an order of a court of petty sessions under this section shall lie to the court on the terms and in the manner prescribed by the rules of the said court.

38. Any person or industrial union who is affected by any order, award, or direction of the court may, whether such person or union was or was not a party to the proceedings in which the order, award, or direction complained of was made, apply at any time to the court to be relieved from any obligation imposed by such order, award, or direction. And the court in entertaining and dealing with such application shall have all the powers conferred upon it by this act.

39. The prothonotary, master in equity, sheriff, bailiffs, and other officers of the Supreme Court and the bailiffs of the district courts and courts of petty sessions shall be deemed to be also officers of the court, and shall exercise the powers and perform the duties prescribed by any rules of court made under this act; and for the purpose of carrying out the provisions of this act, and in relation to any proceedings before the court or the president of the court and in relation to the making, carrying out, and enforcing of any award, order, or direction of the said court or president, shall, except where provided in any rules made as aforesaid, exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, direction, or conviction of the Supreme Court or any district court or court of petty sessions.

40. Where the award or order of the court, or an industrial agreement, binds specifically a corporation, person, industrial union, trade union, or branch, any property held by such corporation, person, union, or branch, or by any trustee on his or its behalf, shall be available to answer such award, order, or agreement, and any process for enforcing the same; and in the case of any such union or branch, if the property so held is insufficient to fully satisfy the said award, order, agreement, or process, the members of such union or branch shall be liable for such deficiency: Provided that no member shall be so liable for more than ten pounds [$48.67].

41. Any person or union aggrieved by a decision of the registrar may appeal therefrom in the prescribed manner to the president of the court. The president may direct the issue to the registrar of a writ of mandamus or of prohibition.

Supplemental.

42. No stamp duty shall be payable on or in respect of any registration, certificate, agreement, order, statutory declaration, or instrument affected, issued, or made under this act.

43. Evidence of any order of the court may be given by the production of a copy thereof certified under the hand of the registrar.

44. Evidence of any proclamation, notification, rule, or regulation required by this act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or purporting to contain such proclamation, notification, rule, or regulation.

45. The governor may, subject to the provisions of this act, make regulations—

(a) prescribing the powers and duties of the registrar and of persons acting in the execution of this act;
(b) prescribing the persons by whom and the manner in which applications for the registration of industrial unions may be made;
(c) regulating the conditions on which branches may be registered;
(d) prescribing the matters to be contained in the rules of any industrial unions, and regulating the names under which industrial unions may be registered;
(e) regulating the keeping of the register, and the granting of certificates of incorporation of industrial unions;
(f) prescribing the persons by whom and the manner in which applications for the cancellation of the registration and incorporation of industrial unions may be made, and the evidence to be furnished and the conditions to be performed prior to such cancellation, and prescribing the manner of such cancellation;
(g) prescribing the sending to the registrar of copies of rules and lists of members of industrial unions;
(h) prescribing the conditions under which and the manner in which persons may be recommended by industrial unions for appointment to the court;
(i) regulating the nomination and remuneration of assessors to the court;
(j) generally for carrying the provisions of this act into effect;

and may in those regulations fix any penalty not exceeding twenty pounds [$97.33] for any breach of the same, to be recovered in a summary way in a court of petty sessions.

46. All rules and regulations made in pursuance of this act shall be published in the Gazette, and shall be laid before both houses of Parliament within fourteen days after such publication for approval or amendment, if Parliament be then sitting, but if not, then within fourteen days after the next meeting of Parliament; and in that case such rules and regulations shall in the meantime be applied temporarily after publication in the Gazette, until Parliament meets, and thereafter shall have the force of law until Parliament otherwise decide.

47. This act shall continue in force until the thirtieth day of June, one thousand nine hundred and eight, and no longer.

SCHEDULES.

SCHEDULE ONE.

Matters to be contained in the rules, articles, and regulations of a company, association, trade union, or branch applying to be registered as an industrial union.

1. The appointment and removal of a committee of management, a chairman or president, a secretary, and, except in the case of an incorporated company, a trustee or trustees, and the filling of any vacancies in such offices.

2. The powers and duties of such committee and officers, and the control to be exercised by special or general meetings over the committee.

3. The manner of calling such meetings, the quorum, and the manner of voting thereat.

4. The mode in which industrial agreements and other instruments shall be made by or on behalf of the company, association, trade union, or branch.

5. The manner in which the company, association, trade union, or branch may be represented in any proceeding before the court.

6. The custody and use of the seal.

7. The control of the property and the investment of the funds, and the periodical audit of the accounts of the company, association, trade union, or branch; audit to be made once a year.

8. Provision for keeping a register of members.

9. The terms on which persons may become or cease to be members of the company, association, trade union, or branch, including provision for the payment and recovery of subscriptions by members, and in the case of a trade union or branch provision that a person shall not cease to be a member unless he has given at least three months' written notice to the secretary, and has paid all fees and dues owing by him to the trade union or branch, and provision that reasonable facilities shall be given to become members of the union.

10. The description of the registered officer of the company, association, trade union, or branch.

SCHEDULE TWO.

1. Each industrial union of employers may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale: Where the company or persons constituting the union employ on the average of the next preceding month not less than fifty nor more than two hundred and fifty employees, the union may choose one delegate; where such employees number more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates.

2. Each industrial union of employees may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale: Where the financial members of the union number, on the average of the next preceding month, not more than two hundred and fifty, the union may choose one delegate; where such number is more than two hundred and fifty, but not more than five

hundred, two delegates; where more than five hundred, three delegates; where more than one thousand, four delegates; where more than one thousand five hundred, five delegates.

3. Any dispute occurring at any time respecting the number of delegates which may be chosen by any union shall be determined by the registrar, who may, if he determines that the number already chosen is greater than the number which any union is entitled to choose, decide who of the members chosen shall be the delegate or delegates to represent the union. The determination or decision of the registrar shall be final.

4. The delegates chosen respectively by the unions of employers and unions of employees shall respectively meet in separate places and at the respective times fixed by the registrar, and shall respectively recommend a fit person or fit persons for the office of a member of the court. The voting shall be by ballot, and each delegate shall have one vote.

5. Any recommendation of any such delegates shall not be vitiated by any informality in the choosing of any delegates or from the fact that any unions have omitted to choose delegates, or by any informality in the proceedings of the delegates in making the recommendation.

RECENT REPORTS OF STATE BUREAUS OF LABOR STATISTICS.

NEBRASKA.

Seventh Biennial Report of the Bureau of Labor and Industrial Statistics of Nebraska for the years 1899 and 1900. Sidney J. Kent, Deputy Commissioner. 639 pp.

The following subjects are treated in this report: Social statistics, 22 pages; mortgage indebtedness, 33 pages; labor organizations, 17 pages; surplus products, 80 pages; crop statistics, 1898, 1899, and 1900, 75 pages; manufactures, 164 pages; labor laws, 25 pages; fire escapes and factory inspection, 4 pages; free employment department, 3 pages; British trade-union congress, 7 pages; cooperation in Great Britain, 9 pages; New Zealand industrial conciliation and arbitration law, 40 pages; proceedings of the national association of officials of bureaus of labor statistics, 137 pages.

Social Statistics.—These include statistics of marriages and divorces, suicides, and crimes in Nebraska.

Mortgage Indebtedness.—Statistics are given showing, for each county, the number of farm and town and city real-estate and chattel mortgages filed, the number satisfied, and the amounts involved, during each of the four half-year periods from July 1, 1898, to July 1, 1900. The aggregate amount of real-estate mortgages filed during the two-year period was $49,614,731.81, and the amount of those released was $61,820,376.33. The amount of the chattel mortgages filed was $83,120,060.80, and of those released $48,456,323.82.

Labor Organizations.—Reports from 64 unions are tabulated. The tables show, by localities, the names of labor organizations, dates of organization, wage rates and hours of labor of members, dues, strikes participated in by members, and other information supplied by the unions. The membership of labor organizations is not given. The average wages of members were $2.36⅔ per day. With regard to changes in wage rates during the past 5 years, 31 unions reported an increase, 6 reported a reduction, and 27 reported no change. Most of the organizations pay either sick, death, or out-of-work benefits. The unions report 18 strikes during the past 2 years, of which 16 succeeded and 2 failed. In 9 cases arbitration was appealed to.

SURPLUS PRODUCTS.—Tables are given showing, for each county and for the State, the surplus products marketed during the year 1898, and their estimated value.

CROP STATISTICS.—This chapter consists of a compilation of reports of county clerks based on statistics gathered by local assessors. The data relate to the acreage of the various crops sown or planted, the amount of products raised, poultry, live stock, dairy products, etc.

MANUFACTURERS' RETURNS.—Tables are given showing, for the establishments reporting, which are grouped according to industries, the value of products, cost of material used, days in operation, wages paid, etc., for the years 1898 and 1899. The industries considered are brick and tile making, brewing and distilling, creameries, flour and feed, gas and electric lighting, ironwork, meat packing, and the manufacture of brooms, cigars, harness, and wagons and buggies. These tables are followed by a list of the names and addresses of manufacturing establishments in the State.

FREE EMPLOYMENT DEPARTMENT.—An account is given of the work of the employment bureau created by law in 1897. During the years 1899 and 1900, 653 applications for positions and 159 applications for help were received, and 181 persons secured employment through the bureau.

COOPERATION IN GREAT BRITAIN.—A brief history is given of the development of cooperation in Great Britain.

NEW JERSEY.

Twenty-second Annual Report of the Bureau of Statistics of Labor and Industries of New Jersey for the year ending October 31, 1899. William Stainsby, Chief. xi, 354 pp.

In this report the following subjects are presented: Statistics of manufactures, 108 pages; an account of the silk industry, 13 pages; railroad transportation, 13 pages; company stores, 32 pages; strikes and lockouts, 33 pages; cost of living, 13 pages; a study of trade-unionism, 29 pages; benefit features of trade unions, 31 pages; benefits to workingmen of labor statutes, 20 pages; laws and court decisions affecting labor, 50 pages.

MANUFACTURES.—The statistics are for the year 1898, and are much more complete than any the bureau has been able to present heretofore, the law of March 23, 1899, making it obligatory upon all manufacturers to furnish to the bureau the information desired. An indication of the effect of this law is found in the fact that the preceding report showed only 25 industries whose annual product was $1,000,000 or over, while the present one reports 29 industries each with an output exceeding $2,000,000 in value.

Statistics are presented for 1,464 establishments representing 84 classified industries and a few that are not classified. Of these establishments but 1,228 are complete in all details shown.

Nine tables are given, as follows: Number of firms and corporations, partners and stockholders, by industries; capital invested and value of materials and products; three tables showing smallest, greatest, and average number of employees, by industries, and aggregates by months; wages paid and average yearly earnings; classified weekly wages; days in operation and proportion of business done, and a summary of the preceding facts for 9 principal industries.

All establishments report capital invested, the amount being $196,798,843; the value of material used is $131,480,197, and of goods made, $264,274,214.

The 29 industries whose products amount to $2,000,000 or more represent 62 per cent of the capital and 78.1 per cent of the products as stated above. The following tables give the principal data for these industries:

FIRMS AND CORPORATIONS, AVERAGE EMPLOYEES AND WORKING TIME, AND PER CENT OF BUSINESS DONE, FOR 29 LEADING INDUSTRIES, 1898.

Industries.	Establishments reporting.	Firms.	Corporations.	Partners and stockholders.	Average employees.	Average days in operation.	Per cent of business done of maximum capacity.
Brewing	26	7	19	180	1,443	312.84	74.23
Brick and terra cotta	56	31	25	394	4,360	a 253.19	a 72.45
Chemical products	33	11	22	199	2,256	309.06	88.48
Cotton goods	27	18	9	99	3,044	287.93	90.19
Cotton goods, finishing and dyeing	17	8	9	81	3,395	289.35	60.40
Fertilizers	10	2	8	385	911	302.60	85.00
Food products	10	6	4	50	635	298.60	86.00
Foundries, iron	29	18	11	225	3,205	294.28	81.90
Furnaces, ranges, and heaters	13	5	8	113	1,415	277.38	78.46
Glass	23	6	17	117	4,644	247.22	44.35
Hats, felt	40	29	11	134	4,680	265.75	75.87
Jewelry	60	48	12	159	2,189	291.07	80.25
Lamps	7	1	6	553	1,525	289.96	86.43
Leather	43	21	22	190	3,278	295.91	88.95
Machinery	81	43	38	564	9,275	298.21	87.33
Metal goods	39	14	25	403	3,125	295.03	94.95
Oilcloth	6	1	5	37	659	310.50	86.33
Oils	9	3	6	144	2,400	315.66	80.00
Paper	35	12	23	187	1,550	288.00	92.71
Pottery	26	12	14	527	2,799	295.69	87.50
Rubber goods	27	3	24	222	3,238	279.44	89.63
Shoes	45	24	21	206	4,737	270.93	83.20
Silk dyeing	21	10	11	67	3,381	293.62	76.90
Silk weaving	112	59	53	500	21,209	279.47	85.27
Smelting and refining	5	2	3	27	1,567	351.20	90.00
Steel and iron, forgings	10	5	5	159	1,780	296.10	88.50
Steel and iron, structural	18	8	10	71	4,313	294.11	87.77
Watches, cases and materials	8	2	6	230	1,610	291.00	90.62
Woolen and worsted goods	25	11	14	239	5,402	275.52	82.00
Total	861	420	441	6,462	104,025	.....	.....

a Forty-seven establishments reporting.

CAPITAL INVESTED, VALUE OF MATERIALS AND PRODUCTS, WAGES PAID, AND AVERAGE YEARLY EARNINGS, FOR 29 LEADING INDUSTRIES, 1898.

Industries.	Establishments reporting capital and values.	Capital invested.	Value of material used.	Value of products.	Establishments reporting wages and earnings.	Wages paid.	Average yearly earnings.
Brewing	26	$10,722,417	$2,975,507	$9,990,845	26	$1,161,671	$805.04
Brick and terra cotta	45	4,752,438	1,082,026	3,566,941	45	1,424,281	361.22
Chemical products	22	4,073,688	5,428,800	7,266,638	28	840,463	472.96
Cotton goods	14	1,642,500	1,146,818	2,062,493	27	749,480	246.22
Cotton goods, finishing and dyeing	14	4,449,400	4,500,367	6,640,930	17	1,414,100	416.52
Fertilizers	10	3,857,300	2,325,774	3,781,101	10	422,537	463.82
Food products	9	1,510,500	3,109,617	3,569,892	9	202,566	356.63
Foundries, iron	24	1,903,623	1,793,436	3,810,689	26	1,312,395	430.29
Furnaces, ranges, and heaters	13	2,184,437	2,014,359	3,493,282	13	860,343	608.02
Glass	16	2,654,440	1,008,706	3,255,205	18	1,745,502	495.32
Hats, felt	36	1,814,272	2,979,132	6,130,543	39	2,131,750	467.49
Jewelry	57	2,651,107	2,402,138	4,587,405	59	1,130,165	528.17
Lamps	7	1,553,969	1,177,278	2,325,615	7	552,501	362.30
Leather	36	2,994,653	5,079,876	8,249,889	36	1,293,080	527.14
Machinery	65	8,790,070	4,008,642	10,431,775	68	4,610,013	573.67
Metal goods	31	3,191,794	2,960,971	4,398,335	32	1,001,450	340.28
Oilcloth	6	1,975,000	1,771,462	2,574,426	6	328,923	499.12
Oils	9	13,969,270	25,214,834	27,071,024	9	1,385,034	577.10
Paper	30	2,255,200	1,969,279	3,627,503	30	626,802	452.56
Pottery	22	4,598,026	653,247	2,393,681	22	1,275,659	561.47
Rubber goods	21	3,359,794	4,265,341	6,057,748	21	944,433	434.22
Shoes	40	2,230,131	3,749,095	6,216,895	40	1,639,590	353.21
Silk dyeing	21	1,692,773	2,177,814	4,279,859	21	1,327,593	392.66
Silk weaving	106	18,663,609	18,754,917	37,042,215	106	8,853,831	422.94
Smelting and refining	2	2,500,000	652,400	18,958,000	5	873,729	557.58
Steel and iron, forgings	6	2,180,900	1,146,235	2,314,801	6	766,386	544.70
Steel and iron, structural	15	1,786,500	1,614,521	3,256,964	18	1,793,930	415.94
Watches, cases and materials	8	2,276,000	1,150,928	2,242,360	8	674,017	418.64
Woolen and worsted goods	22	5,764,066	4,609,376	6,818,752	22	1,576,931	298.55
Total	733	121,997,877	111,722,896	206,415,806	774	42,919,155	.....

THE SILK INDUSTRY.—This purports to be a presentation of the beginning, growth, and present proportions of this industry in the State, but is mainly taken up with the last phase of the subject. Statistics are presented for the three branches of throwing, dyeing, and weaving, and for the manufacture of reeds and harness. Comparison of the United States census statistics for silk manufacture for the years 1880 and 1890 with the Bureau's report for 1898 shows the number of establishments to have been 106 and 132 for the two census years and 151 for the year 1898. The average number of employees for the same dates was 12,549, 17,917, and 26,045, respectively.

The following table presents certain totals and ratios for the years named:

WAGES PAID AND VALUE OF MATERIALS AND PRODUCTS FOR THE SILK INDUSTRY, 1880, 1890, 1898.

Year.	Value of product.	Materials used.		Wages paid.		Per cent of minor expenses and profits of value of product.
		Value.	Per cent of value of product.	Amount.	Per cent of value of product.	
1880	$12,851,045	$7,176,136	55.8	$4,147,745	32.5	11.7
1890	25,405,982	12,703,382	50.0	7,176,180	28.2	21.8
1898	42,570,690	21,378,671	50.2	10,650,789	25.0	24.8

Compared with the value of products, a relative decrease of 5.6 per cent in the cost of raw material is apparent and of 7.5 per cent in the amount of wages paid, in the period covered by this table, while the ratio of profits has more than doubled.

The following table shows, by sex, the number of employees receiving specified rates of wages:

EMPLOYEES IN THE SILK INDUSTRY RECEIVING CLASSIFIED RATES OF WAGES, BY SEX, 1898.

Weekly wages.	Throwing.		Dyeing.		Weaving.		Total.		Grand total.
	Males.	Females.	Males.	Females.	Males.	Females.	Males.	Females.	
Under $5	320	244	80	72	1,481	2,523	1,881	2,839	4,720
$5 or under $6	75	446	41	41	613	1,341	729	1,828	2,557
$6 or under $7	121	157	61	19	592	1,310	774	1,486	2,260
$7 or under $8	40	20	150	9	605	1,394	795	1,423	2,218
$8 or under $9	36	3	299	12	648	648	983	663	1,646
$9 or under $10	19	8	1,116	4	771	701	1,906	713	2,619
$10 or under $12	33	13	609	3	1,740	1,249	2,382	1,265	3,647
$12 or under $15	20	.....	281	1	1,470	806	1,771	807	2,578
$15 or under $20	19	.....	139	.....	1,734	342	1,892	342	2,234
$20 or over	7	.....	117	.....	696	48	820	48	868
Total	690	891	2,893	161	10,350	10,362	13,933	11,414	25,347

The median wage for all males, above and below which equal numbers of employees are found, is a little less than ten dollars, while for females it is somewhat below seven dollars, the number of females who receive ten dollars or more being but 21.6 per cent of the total females. The number of males whose wages do not exceed the median wage for females is but 24.3 per cent of the whole number of males employed.

STEAM RAILROAD TRANSPORTATION.—This chapter includes a brief discussion of accidents to employees, based on the report of the Interstate Commerce Commission, and statistical tables for 7 roads reporting to the Bureau. The tables show the number of employees in the State, total and average number of days employed, total wages paid, and average daily and yearly earnings for each class of employees.

COMPANY STORES.—This is a report of an investigation of 15 company stores preceded by a brief discussion of the general subject. Tables are given showing comparative prices of more than 50 articles of general use at company stores and at private stores in the same localities. The conclusion is reached that the average cost of one dollar's worth of goods purchased at private stores would be $1.13 if purchased at company stores.

STRIKES AND LOCKOUTS.—First is given a narrative account of the strike of the nonunion bottle blowers of southern New Jersey in 1899; then a tabular presentation of 34 strikes and lockouts, from January 1, 1898, to August 31, 1899, showing causes, duration, persons involved, loss of time and wages, and results. Brief accounts are also given of minor labor troubles in 1899.

COST OF LIVING IN NEW JERSEY.—Tables presenting the retail prices of 51 articles of household use in leading localities in all the counties

of the State for the month of June, 1899, with summaries, and a comparison of average retail prices for 1898 and 1899, make up this portion of the report.

A STUDY OF TRADE-UNIONISM.—There are here given tables showing the daily wages, yearly earnings, hours of labor, and days idle of union and nonunion workmen in 9 trades. The amount of benefits and assessments are also reported for union workmen. The comparisons in each table are between equal numbers of each class, and actual benefits received and assessments paid are taken into account in making up the reported annual earnings of the union men.

The following table presents a summary comparison:

HOURS OF LABOR, DAYS IDLE, DAILY WAGES, AND ANNUAL EARNINGS OF UNION AND NONUNION WORKMEN.

Trades.	Number reporting in each class.	Average weekly hours of labor.		Days idle during year.		Average daily wages.			Average yearly earnings.		
		Union	Nonunion.	Union	Nonunion.	Union	Nonunion.	Per cent of excess of union over nonunion.	Union.	Nonunion.	Per cent of excess of union over nonunion.
Bakers	16	70.5	96.4	33.5	43.4	$2.05	$1.79	14.5	$572.15	$470.40	21.6
Bricklayers	20	51.5	57.4	78.1	104.3	3.80	2.17	75.1	858.68	431.68	98.9
Carpenters	30	53.0	58.0	66.0	111.0	2.53	2.13	18.8	613.73	432.82	41.8
Cigarmakers	30	47.1	53.8	32.8	12.8	2.27	1.65	37.6	604.47	483.78	24.9
Glassblowers	35	49.5	53.5	103.9	137.5	5.62	3.52	59.7	1,096.57	593.12	84.9
Horseshoers	20	53.4	59.6	39.8	25.6	2.96	2.65	11.7	796.61	751.16	6.1
Painters	20	48.0	57.0	78.6	108.6	2.50	1.81	38.1	559.50	357.71	56.4
Plumbers	30	52.2	57.9	30.7	23.8	3.00	2.46	22.0	825.57	695.00	18.8
Polishers and buffers	20	59.5	59.5	21.1	21.0	2.25	1.58	42.4	635.27	450.30	41.1

BENEFIT FEATURES OF AMERICAN TRADE UNIONS.—Under this head are given extracts from an article having the same title which appeared in Bulletin No. 22 of the United States Department of Labor.

BENEFITS DERIVED BY WORKINGMEN FROM THE LABOR STATUTES.—The section is made up of returns of workingmen in various trades on the above point, together with a list of the laws referred to in such returns.

NEW YORK.

Eighteenth Annual Report of the Bureau of Labor Statistics of the State of New York, for the year 1900. Transmitted to the legislature January 21, 1901. John McMackin, Commissioner. xiv, 1,072 pages.

The subjects presented in this report are five in number, as follows: Part I, The eight-hour movement, 243 pages; Part II, Social settlements, 185 pages; Part III, The economic condition of organized labor,

557 pages; Part IV, Report of the State free employment bureau, 21 pages; Part V, Labor laws of the State enacted in 1900, 9 pages.

THE EIGHT-HOUR MOVEMENT.—The consideration of this subject is quite extended, involving the presentation of numerous statistical tables showing the general movement toward a shorter workday in the United States since 1830, the hours of labor in European countries and Australasia, the hours of labor in the factories of the State from 1891 to 1899, and the hours of labor of members of labor unions in 1900. There are also chapters on the practicability of the eight-hour day and the methods of establishing the same, and a conspectus of the legislation of the States and Territories regulating the hours of labor.

The following table shows the number and per cent of employees in the State working the specified number of hours per week as reported by about 5,000 establishments:

HOURS OF LABOR OF EMPLOYEES IN 5,000 ESTABLISHMENTS IN THE STATE OF NEW YORK, 1891 TO 1899.

Year.	Employees whose weekly hours of labor were—														Total employees.
	Under 48.		48 to 51.		52 to 57.		58 to 63.		64 to 69.		70 to 72.		Over 72.		
	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	
1891...	3,112	1.67	14,077	7.57	31,010	16.67	134,260	72.18	963	0.52	1,719	0.93	862	0.46	186,003
1892...	2,913	1.44	15,250	7.55	33,398	16.54	146,413	72.48	1,234	.61	1,903	.94	894	.44	202,005
1893...	5,551	2.50	18,207	8.22	39,958	18.04	153,267	69.18	1,165	.53	2,459	1.11	934	.42	221,541
1894...	10,299	4.90	19,924	9.49	37,388	17.81	136,738	65.12	1,596	.76	3,141	1.50	892	.42	209,978
1895...	9,513	3.96	19,004	7.90	42,955	17.86	163,395	67.95	1,213	.51	3,343	1.39	1,038	.43	240,461
1896...	6,249	2.20	20,379	7.18	57,681	20.32	189,120	66.61	3,363	1.18	5,343	1.88	1,799	.63	283,934
1897...	6,552	2.19	22,355	7.48	62,474	20.90	195,888	65.53	3,351	1.12	6,108	2.04	2,202	.74	298,930
1898...	6,111	1.82	21,419	6.38	74,396	22.16	220,896	65.79	3,485	1.04	7,155	2.13	2,302	.68	335,764
1899...	7,440	1.83	25,609	6.29	89,763	22.04	269,314	66.13	5,442	1.33	7,112	1.75	2,555	.63	407,235

From this table it appears that what might be specifically termed the eight-hour movement made its chief advances in the years 1893 to 1895, since which time it has receded. Of greater significance are the more permanent changes indicated in the columns headed "52 to 57" and "58 to 63," showing a steady gain of what may be designated the nine-hour day over the ten-hour day. A few seven-day occupations and some establishments that run the entire 24 hours daily with two shifts of men keep up the small percentages of those employees whose hours per week exceed 64 in number; there is, moreover, a larger representation of certain industries of these classes in the later than in the earlier years, notably street-railway transportation, and baking, brewing, and sugar refining.

It is possible to make a division of the above data for the years 1896 to 1899, showing separately the hours of labor in New York City and those in the State outside. The following table is the result:

HOURS OF LABOR OF EMPLOYEES IN 5,000 ESTABLISHMENTS IN NEW YORK CITY AND IN THE STATE OUTSIDE, 1896 TO 1899.

Year.	Employees whose weekly hours of labor were—														Total employees.
	Under 48.		48 to 51.		52 to 57.		58 to 63.		64 to 69.		70 to 72.		Over 72.		
	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	Number.	Per ct.	
CITY.															
1896	2,698	2.16	13,045	10.44	39,719	31.79	66,349	53.11	843	0.68	1,877	1.50	398	0.32	124,929
1897	3,272	2.45	14,880	11.15	42,577	31.91	68,520	51.35	1,326	.99	2,022	1.52	836	.63	133,433
1898	3,443	2.29	14,958	9.98	50,960	34.00	75,828	50.59	988	.66	2,694	1.80	1,021	.68	149,892
1899	5,652	3.09	18,286	9.98	66,579	36.35	87,815	47.94	1,660	.91	2,176	1.19	993	.54	183,161
STATE.															
1896	3,551	2.23	7,334	4.61	17,962	11.30	122,771	77.21	2,520	1.59	3,466	2.18	1,401	.88	159,005
1897	3,280	1.98	7,475	4.52	19,897	12.02	127,368	76.96	2,025	1.22	4,086	2.47	1,366	.83	165,497
1898	2,668	1.43	6,461	3.48	23,436	12.61	145,068	78.05	2,497	1.34	4,461	2.40	1,281	.69	185,872
1899	1,788	.80	7,323	3.27	23,184	10.34	181,499	81.00	3,782	1.69	4,936	2.20	1,562	.70	224,074

Certain interesting contrasts are here apparent. For instance, in the class "Under 48" the movement is pretty uniform in opposite directions for the city and for the State outside. The ten-hour day is the standard for the State at large, while in the city 9 hours is increasingly accepted as such. The latter is the measure of service for about one-third and the former for about one-half the working people of the city, while outside the city the fractions relating to the same workdays are roughly one-tenth and three-fourths, the longer hour classes being smaller in each instance in the city than outside.

These differences are largely attributed to the influence of labor organizations, which not only include a larger proportion of the trades in the city than in the State at large, but also, by their success in certain lines of industry, influence the hours of labor in unorganized trades. The following table shows by industries the hours of labor of members of labor organizations in the entire State:

HOURS OF LABOR OF MEMBERS OF LABOR ORGANIZATIONS IN NEW YORK STATE, BY GROUPS OF INDUSTRIES, SEPTEMBER, 1900.

Industries.	Employees whose weekly hours of labor were—						Total.	Unknown.
	Under 48	48 to 51	52 to 57	58 to 63	64 to 72	Over 72		
Building, stone working	38,134	30,320	7,100	2,610	90	.....	78,254	2,082
Clothing and textiles	147	386	6,341	18,196	1,509	826	27,405	1,461
Metals, machinery, shipbuilding	168	1,061	4,828	14,987	565	645	22,254	9,017
Transportation	.....	.....	86	7,031	4,837	6,159	18,113	12,012
Printing	458	414	8,812	401	.....	.....	10,085	7,032
Tobacco	2,628	8,691	394	636	.....	.....	12,349	.....
Food and liquors	636	.....	367	4,259	773	1,191	7,226	2,204
Theaters and music	317	.....	201	52	109	74	753	8,945
Woodworking, furniture	835	582	906	4,792	.....	.....	7,115	1,597
Restaurants and retail trade	250	.....	270	691	2,261	276	3,748	1,748
Public employment	.....	4,293	164	291	295	1,400	6,443	705
Miscellaneous	195	195	481	1,382	672	864	3,789	1,044
Total	43,768	45,942	29,950	55,328	11,111	11,435	197,534	47,847
Percentages of group totals of total number reporting	22.1	23.3	15.2	28.0	5.6	5.8	100.0	

Irregularity of hours affected the report in certain occupations, as of theatrical performers and musicians. In the printing trades a number of the reports gave eight and nine hours as the length of the workday of machine and hand compositors, respectively, without designating the number of each, so that tabulation of these returns was impossible. It is, however, one of the better-organized industries, like the building trades and the tobacco industry, which have secured for themselves an established workday of eight or nine hours.

Social Settlements.—This article begins with a historical sketch and a discussion of purposes and methods and of the relations of settlements to other agencies for social improvement. Then follow detailed accounts of 30 settlement houses in Greater New York and 2 in Buffalo, describing neighborhood characteristics, particular lines of activity, results, etc., making a full presentation of this subject. Other social agencies receive brief mention.

The Economic Condition of Organized Labor.—This report is based on quarterly returns from the labor organizations of the State, relating to membership, hours of labor, rates of wages, working time and earnings, and number of unemployed members during each quarter. This system of reports was begun in 1897. The following table summarizes certain data for the entire period:

STATISTICS OF LABOR ORGANIZATIONS FOR EACH QUARTER FROM JANUARY, 1897, TO SEPTEMBER, 1900.

Quarter ending—	Organizations reporting.	Membership on last day of quarter.			Members reporting as to employment.	Members unemployed on last day of quarter.		Average days of employment during quarter.	
		Men.	Women.	Total.		Number.	Per cent.	Men.	Women.
March 31, 1897	927	138,249	4,321	142,570	142,570	43,654	30.6	58	63
June 30, 1897	976	147,105	4,101	151,206	151,206	27,378	18.1	69	57
September 30, 1897	1,009	162,690	5,764	168,454	168,454	23,230	13.8	67	66
December 31, 1897	1,029	167,250	6,712	173,962	173,962	39,353	22.6	65	56
March 31, 1898	1,048	173,349	6,606	179,955	179,955	37,857	21.0	62	61
June 30, 1898	1,079	164,802	7,538	172,340	172,340	35,643	20.7	61	58
September 30, 1898	1,087	163,562	7,505	171,067	171,067	22,485	13.1	65	64
December 31, 1898	1,143	167,271	7,480	174,751	174,751	46,603	26.7	63	65
March 31, 1899	1,156	166,005	7,511	173,516	173,516	31,751	18.3	64	68
June 30, 1899	1,210	180,756	7,699	188,455	183,795	20,141	11.0	70	72
September 30, 1899	1,320	200,932	8,088	209,020	201,904	9,590	4.7	71	71
December 31, 1899	1,390	216,142	8,239	224,381	214,644	41,698	19.4	68	69
March 31, 1900	1,452	223,069	9,464	232,533	221,717	44,336	20.0	66	65
June 30, 1900	1,602	236,770	10,782	247,552	239,841	49,399	20.6	(a)	(a)
September 30, 1900	1,635	233,553	11,828	245,381	237,166	31,460	13.3	67	65

a Not reported.

The increase in the number of organizations is continuous but irregular, being between four and five times as great in the second as in the third quarter of 1900. During the latter quarter also there was a decrease in the total number of members, although the number of women members increased steadily throughout the year.

The percentage of unemployment for the last quarter of 1899 is noticeably smaller than for the corresponding quarter of previous

years, but the opening of the spring of 1900 failed to bring about the favorable results as to employment that were so apparent in the summer quarters of 1899.

An examination of the reported average earnings for each quarter indicates such stability of wage rates as to make the number of days worked the controlling factor in the amount of earnings. Thus the earnings of men were $184 for the last quarter of 1899 as against $169 for the corresponding term of 1898, while the shortened working time for the third quarter of 1900 as compared with the third quarter of 1899 gives $182 earnings for the later period as against $197 for the earlier.

On September 30, 1900, New York City contained 30.7 per cent of the labor organizations of the State and 63.0 per cent of the membership. Of organized working women, at the same date, the metropolis had 68.2 per cent of the total number in the State, and of the men, 62.7 per cent.

The following table shows, by industries, the number and membership of organizations for each quarter from December 31, 1899, to September 30, 1900, and the per cent of female members at the latter date:

ORGANIZATIONS AND MEMBERSHIP, BY INDUSTRIES, FROM DECEMBER, 1899, TO SEPTEMBER, 1900.

Industries.	Organizations on—				Membership on—				Per cent of female members, Sept. 30, 1900.
	Dec. 31, 1899.	Mar. 31, 1900.	June 30, 1900.	Sept. 30, 1900.	Dec. 31, 1899.	Mar. 31, 1900.	June 30, 1900.	Sept. 30, 1900.	
Building, stone working	396	418	456	472	73,427	74,388	77,344	80,336	.....
Clothing and textiles	105	109	121	124	33,666	32,037	31,374	28,866	21.8
Metals, machinery, etc	247	257	291	292	27,992	31,135	33,051	31,271	.....
Transportation	190	191	202	205	25,211	27,429	31,178	30,125	.02
Printing	78	80	88	91	16,040	16,534	16,983	17,117	4.4
Tobacco	55	55	56	55	8,978	9,723	11,850	12,349	31.6
Food and liquors	89	91	99	103	8,757	8,678	9,706	9,430	.....
Theaters and music	31	33	34	32	9,494	9,627	9,536	9,698	4.9
Woodworking	49	50	59	65	7,913	8,468	9,117	8,712	.....
Restaurants and retail trade	41	47	58	56	3,781	4,206	5,712	5,496	7.0
Public employment	51	52	56	58	5,847	6,423	6,508	7,148	.1
Miscellaneous	58	69	82	82	3,275	3,885	5,193	4,833	.3
Total	1,390	1,452	1,602	1,635	224,381	232,533	247,552	245,381	4.8

Percentages of unemployment for the year covered by the report are presented by industries in the following table, and a comparison afforded of each quarter with the corresponding quarter of the year previous; also separate totals for New York City and for the State outside.

PER CENT OF MEMBERS OF LABOR ORGANIZATIONS UNEMPLOYED AT END OF EACH QUARTER, DECEMBER, 1898, TO SEPTEMBER, 1900.

Industries.	Per cent of members of labor organizations unemployed on—							
	December 31.		March 31.		June 30.		September 30.	
	1898.	1899.	1899.	1900.	1899.	1900.	1899.	1900.
Building, stone working	41.1	28.8	35.1	33.7	9.9	24.0	6.1	14.9
Clothing and textiles	56.8	31.9	8.0	22.2	19.6	44.7	.8	29.1
Metals, machinery, etc	7.7	9.0	7.2	7.0	3.4	10.5	3.3	6.2
Transportation	8.6	15.0	10.8	23.1	3.7	12.0	3.0	8.5
Printing	9.1	8.5	8.1	7.5	6.8	8.0	8.6	11.1
Tobacco	17.3	8.8	13.2	12.3	5.2	28.4	2.6	17.4
Food and liquors	6.6	7.6	9.4	10.2	10.0	12.2	8.7	14.6
Theaters and music	8.1	9.9	14.9	8.2	49.9	26.4	6.8	8.4
Woodworking	11.5	11.8	14.1	11.3	19.3	21.0	6.0	7.2
Restaurant and retail trade	14.4	12.8	18.2	7.0	12.0	4.7	9.6	8.4
Public employment	.3	3.1	11.0	1.9	5.1	2.0	.1	2.0
Miscellaneous	5.5	5.9	2.6	6.3	9.6	10.1	5.4	4.2
Total	26.7	19.4	18.3	20.0	11.0	20.6	4.7	13.3
Total, New York City	31.3	20.6	19.5	21.0	13.3	25.5	5.5	16.7
Total, State outside city	15.3	17.1	15.5	18.1	5.6	12.6	3.3	7.5

STATE FREE EMPLOYMENT BUREAU.—There were 5,732 applicants for situations registered by the bureau during the year 1900, of whom 2,157 were males and 3,575 were females. Of these 191 males and 2,778 females secured employment. There were 201 applications for male help and 3,325 for female help, a total of 3,526. The number of male applicants was slightly less than for the previous year, while the demand and the number of positions secured were nearly doubled. The main work of the bureau continues to be the placing of women in various positions of domestic service.

NORTH CAROLINA.

Fourteenth Annual Report of the Bureau of Labor and Printing of the State of North Carolina, for the year 1900. B. R. Lacy, Commissioner. viii, 376 pp.

This report treats of the following subjects: Agricultural statistics, 48 pages; condition of trades, 82 pages; miscellaneous factories, 44 pages; cotton and woolen mills, 31 pages; railway employees, 5 pages; newspapers, 27 pages; compulsory education, 122 pages; mine inspection, 13 pages.

AGRICULTURAL STATISTICS.—This chapter contains the tabulated returns from 369 leading farmers representing every county in the State. The returns relate to the value and fertility of farm lands, the condition of farm labor, wages paid, cost of production and market price of crops, and the economic, educational, and moral condition of farm laborers. Letters from farmers are also published showing the needs and condition of farm labor, etc. The returns show an increase in the value of land in 39 counties, a decrease in 3 counties, and no change in

55 counties. Returns from 87 counties report Negro labor unreliable, 7 reliable, and 2 report no Negro labor. In 47 counties increased wages are reported, and in 50 counties no change. The cost of production of the principal crops was as follows: Cotton, per bale of 500 pounds, $26.19; wheat, per bushel, $0.61; corn, per bushel, $0.41; oats, per bushel, $0.28; tobacco, per hundred pounds, $6.50. The market prices were as follows: Cotton, per pound, $0.09½; wheat, per bushel, $0.85; corn, per bushel, $0.66; oats, per bushel, $0.42; tobacco, per hundred pounds, $7.92. The returns upon which these figures are based were received by the bureau from June 15 to October 1, 1900.

TRADES.—Blanks were sent to representative skilled workmen throughout the State, making inquiries regarding membership in labor unions, wages received, effects of machinery upon labor, systems of wage payment, time worked, fines, cost of living, education, apprenticeship, etc. Returns were received from over 300 persons. Of these 34 per cent reported an increase in wages, 11 per cent a decrease, 53 per cent no change, the remaining 2 per cent not reporting. Letters from wage-earners are also published.

MISCELLANEOUS FACTORIES.—This chapter contains a list of factories in the State, their capital stock, character of motive power, number of days in operation, hours of labor, systems of wage payment, persons employed, wages paid, accidents to workmen, and information concerning the social condition of employees. Letters from manufacturers are also reproduced. Returns were received from over 200 manufacturers. Of these, 50 per cent reported that wages of employees had been increased, 40 per cent that there had been no increase, and 10 per cent failed to report.

COTTON AND WOOLEN MILLS.—This chapter contains a list of the cotton and woolen mills in the State, their locations, capital stock, number of looms and spindles in use, character of motive power, and tables giving by counties the character of goods made, average wages paid, number of employees, children under 14 years of age, hours of labor, total horsepower, etc. Letters from cotton and woolen manufacturers are also reproduced. Of the mills reported in the State on June 30, 1900, 186 produced cotton goods, 11 woolen goods, and 31 knit goods, carpets, rope, net, twine, jute, and silk goods. The mills employed 38,637 persons, of whom 14,999 were men, 16,040 women, and 3,589 boys and 4,009 girls under 14 years of age. Of the adults, 82 per cent, and of the children, 68 per cent, were able to read and write. The hours of labor varied from 10 to 12¼ per day.

RAILROAD EMPLOYEES.—A table is given showing for each road, by occupations, the number of employees and their wages. There were 12,755 railroad employees reported in the State. Their occupations and wages were as follows:

OCCUPATIONS AND AVERAGE DAILY WAGES OF RAILROAD EMPLOYEES IN 1900.

Occupations.	Number.	Average daily wages.	Occupations.	Number.	Average daily wages.
Station agents	654	$1.14	Carpenters	796	$1.37
Other station men	1,529	.81	Other shopmen	1,093	1.26⅔
Enginemen	539	2.70⅔	Section foremen	550	1.33⅓
Firemen	557	1.09⅔	Other trackmen	3,198	.75
Conductors	369	2.19	Switch-flag watchmen	502	.94½
Other trainmen	1,017	.89½	Telegraph operators	366	1.20
Machinists	294	2.40	Other employees	1,291	1.04

OHIO.

Twenty-fourth Annual Report of the Bureau of Labor Statistics of the State of Ohio, for the year 1900. M. D. Ratchford, Commissioner. 461 pp.

The contents of the present report are as follows: Labor laws, judicial decisions, and reports of the United States Industrial Commission, 58 pages; manufactures, 223 pages; labor organizations, 79 pages; rolling mills and tin-plate works, 33 pages; blast furnaces, 14 pages; sweat shops, 9 pages; free employment offices and chronology of labor bureaus, 24 pages.

MANUFACTURES.—The statistics of manufactures in 1899 are presented in the same form as in preceding reports. Detailed tables are given showing, by occupations and for cities and villages, the number of males and females employed in various industries, their average daily and yearly earnings and hours of labor in 1899, and the average number of days employed in 1898 and 1899; the number of males and females employed each month in 1898 and 1899; the total wages paid in 1898 and 1899; the number and salaries of office employees, capital invested, value of product, and value of material used in 1899.

Following is a brief summary of some of the figures presented: In 1899, 2,362 establishments reported a total invested capital of $256,453,091. The total value of goods made was $305,258,061.85, and the value of material used was $163,078,190.49. The aggregate wages paid amounted to $66,093,033.85 in 1899, which was an increase of $10,877,200.44 over the wages paid in the same establishments during 1898. In 2,362 establishments an average of 124,286 males and 25,102 females was employed during the year 1899.

LABOR ORGANIZATIONS.—Statistics are given showing the number of unions reporting, their membership, dues, benefits paid, funds on hand, strikes participated in, the hours of labor of members, etc.

The following table shows the number and membership of labor organizations, classified according to occupations:

MEMBERSHIP OF LABOR ORGANIZATIONS JUNE 30, 1900.

Occupations.	Organizations reporting.	Membership.	Occupations.	Organizations reporting.	Membership.
Bakers	7	464	Metal polishers	11	1,054
Barbers	17	866	Mine workers	187	18,135
Bicycle workers	10	521	Musicians	10	1,429
Boiler makers	10	464	Oil and gas well workers	9	530
Bookbinders	4	214	Painters, decorators, and paper hangers	18	1,397
Boot and shoe makers	4	98	Pattern makers	4	224
Brewery workers	21	1,413	Plasterers	2	123
Bricklayers	6	536	Potters	18	1,765
Brickmakers	3	188	Printing pressmen's assistants	15	818
Broom makers	3	79	Railway conductors	22	1,460
Carriage and wagon makers	5	923	Railway employees, street	8	484
Carpenters	29	2,840	Railway trackmen	2	59
Cigar makers	20	1,755	Railway trainmen	27	2,187
Clerks, retail	28	1,739	Sheet-metal workers	2	115
Coopers	6	248	Steam and hot-water workers	3	63
Electrical workers	6	457	Stereotypers	2	86
Engineers, locomotive	31	1,986	Stonecutters	2	127
Engineers, stationary	2	129	Stone masons	4	217
Engineers, steam	2	242	Stoneware potters	3	262
Federal labor	15	1,640	Stove mounters	4	100
Firemen, locomotive	32	2,103	Suspender workers	2	25
Fishermen, gill-net	2	171	Tailors	15	686
Freight handlers	2	93	Team drivers	10	983
Garment workers	6	518	Telegraph operators	7	403
Glass bottle workers	3	293	Theatrical stage employees	8	265
Glass (flint) workers	16	1,138	Tin-plate workers	5	603
Glass (window) cutters	4	50	Tobacco workers	5	610
Granite cutters	3	51	Typographical workers	18	1,442
Hod carriers	4	338	Waiters	2	323
Horseshoers	6	174	Wood carvers	2	128
Iron molders	27	4,351	Wood, wire, and metal lathers	6	219
Iron, steel, and tin workers	41	3,424	Wood workers	4	357
Laundry workers	4	563	Miscellaneous	53	3,929
Leather workers	3	133			
Letter carriers	12	687	Total	939	79,881
Longshoremen	35	5,851			
Machinists	18	2,488			
Metal chippers	2	45			

On June 30, 1900, 956 trade unions were reported in the State. Of these, 939 reported a total membership of 79,881. Of 876 unions reporting, 40 were organized prior to 1880, 126 from 1880 to 1890, and 710 from 1890 to 1900. During the year ending June 30, 1900, 300 unions were organized, and 25 disbanded. The returns published were somewhat incomplete. As far as reported, the average hours of labor of members were 9.5, the average wages $2.37 per day, the average number of days employed during the year, 272; the average ratio of apprentices to journeymen was 1 to 7, and the average duration of the term of apprenticeship was 3 years. Members of trade unions were engaged in 96 strikes during the year. Trade agreements were reported by 495 unions.

Rolling Mills and Tin-Plate Works.—Statistics are given showing the capacity and production of the rolling mills and tin-plate works making returns, the capital invested, wages paid, persons employed, hours of labor, days in operation, etc., for the year ending June 30, 1900. A comparison is made between the returns of rolling mills for 1900 and for the years 1896 and 1898. The comparative

figures given show a decided improvement in the year 1900 over the previous years.

Blast Furnaces.—Statistics are given covering the same items as those for rolling mills and tin-plate works. A comparison is made between the returns for 1900 and those for 1896 and 1898.

Sweat Shops.—This chapter contains the results of an inquiry made by the bureau through special agents who visited 186 shops in Cleveland and Cincinnati where clothing was manufactured. Statistics are given showing the number of garments manufactured per week, the contract price paid per garment, number of men, women, and children employed, and their average wages and hours of labor. Of the 186 shops visited, 176 consisted of one room, 7 of two rooms, and 3 of three rooms each. In many cases the families lived and worked in the same apartment. Of 146 establishments, 27 were reported in good sanitary condition, 69 were fair, and 50 poor.

Employment Offices.—During the year ending December 31, 1900, the free employment offices at Cincinnati, Cleveland, Columbus, Toledo, and Dayton received applications from employers for 6,608 males and 15,829 females. Applications for situations were made by 11,079 males and 9,776 females. Positions were secured for 4,714 males and 8,630 females.

PENNSYLVANIA.

Annual Report of the Secretary of Internal Affairs of the Commonwealth of Pennsylvania. Vol. XXVIII, 1900. Part III, Industrial Statistics. James M. Clark, Chief of Bureau. 562 pp.; supplement, 196 pp.

In this report are found a historical and descriptive article on the American glass industry, 27 pages; statistics of manufactures, 520 pages; analysis, 12 pages; supplement (bound separately), "The legal relations between the employed and their employers in Pennsylvania, compared with the relations existing between them in other States," 196 pages.

Statistics of Manufactures.—These are mainly presented in two series of tables, the first giving data for 354 identical establishments representing 44 industries, for a period of 9 years, and the other, 830 identical establishments in 89 industries, for a period of 5 years. The first series shows the average days in operation, persons employed, aggregate wages paid, average yearly earnings and daily wages, and value of product, total and per employee.

The following table presents a summary of the more important data:

PERSONS EMPLOYED, WAGES PAID, AND VALUE OF PRODUCTS FOR 354 MANUFACTURING ESTABLISHMENTS, 1892 TO 1900.

Year.	Average number of persons employed.		Aggregate wages paid.		Average yearly earnings.		Value of product.	
	Number.	Per cent of increase.	Amount.	Per cent of increase.	Amount.	Per cent of increase.	Amount.	Per cent of increase.
1892	136,882	.....	$67,331,876	.....	$491.90	.....	$269,452,465	.....
1893	122,278	a 10.67	56,818,289	a 15.61	464.66	a 5.54	226,017,762	a 16.12
1894	109,383	a 10.55	45,229,667	a 20.40	413.50	a 11.01	185,626,971	a 17.87
1895	127,361	16.44	56,704,511	25.37	445.78	7.81	222,730,930	19.99
1896	118,092	a 7.28	52,102,365	a 8.12	441.29	a 1.01	211,252,732	a 5.15
1897	121,281	2.70	52,138,941	.07	429.90	a 2.58	222,995,654	5.56
1898	137,985	13.77	62,676,615	20.21	454.52	5.73	266,044,530	19.30
1899	154,422	11.91	78,179,333	24.73	506.27	11.38	377,934,411	42.06
1900	136,814	a 11.40	69,697,485	a 10.85	509.43	.62	418,790,239	10.81

a Decrease.

The average number of employees and aggregate wages paid for the year 1900 present a decrease from the same items for the preceding year in nearly the same ratio, the slight difference indicating a gain of 0.62 per cent in the average yearly earnings per employee. The total value of products shows a considerable increase over that of the year 1899, which in turn surpassed all preceding years in the series in each point shown in this table.

The very close approximation of the number of employees in 1900 to that shown for the year 1892 renders comparison of the two years interesting. The number of employees in 1900 was 0.05 per cent less, the aggregate wages paid 3.51 per cent greater, and the average annual earnings 3.56 per cent greater than in 1892, while the increase in the value of product was 55.42 per cent.

The second series not only includes a wider range of industries, but is more detailed, as appears from the following table, which is a summary statement for the years covered:

STATISTICS OF 830 MANUFACTURING ESTABLISHMENTS, 1896 TO 1900.

Year.	Capital invested in plants and fixed working capital.	Value of basic material. (a)	Market value of product.	Per cent of value of basic material of value of product.	Average days in operation.
1896	$204,094,520	b $94,939,421	$192,473,762	c 49.3	270
1897	206,230,067	b 104,427,266	209,663,393	c 49.8	286
1898	211,681,880	b 118,072,708	245,693,223	c 48.1	286
1899	243,365,826	167,567,839	329,248,235	50.9	287
1900	260,611,930	186,203,673	359,925,487	51.7	288

Year.	Number of persons employed.	Aggregate wages paid.	Average yearly earnings.	Average daily earnings.	Value of product per employee.	Per cent of wages of value of product.
1896	134,790	$51,293,561	$380.54	$1.41	$1,427.95	26.6
1897	140,661	53,749,916	382.12	1.34	1,490.56	25.6
1898	156,943	62,757,811	399.88	1.40	1,565.49	25.5
1899	179,779	77,937,500	433.52	1.51	1,831.41	23.7
1900	190,024	82,913,073	436.33	1.52	1,894.11	23.0

a By basic material is meant only the material out of which the product was made, and does not include any of the material used in its development.
b Figures for 827 establishments, 3 not reporting.
c Based on value of basic material for 827, and value of product for 830 establishments.

There is apparent a general increase in the amount of manufacturing business done in the period covered by this table, as indicated by each item considered. This increase is not equally distributed, however, as is shown by the encroachment of the cost of basic material upon the value of the product and by the decreasing ratio of wages, compared with the same item.

IRON, STEEL, AND TIN PLATE.—In the pig-iron industry, with a capital of $72,188,784 and 15,785 employees in 1900, there was a production of 6,371,688 gross tons, of a realized average value of $16.55 per ton, making a total value of $105,449,923. This was a decrease of 2.6 per cent from the production of the year 1899; but as the value per ton was 10.3 per cent greater, the total value of product showed an increase of 7.4 per cent. The aggregate cost of basic material was 31.5 per cent greater than in 1899, while the cost per ton was greater by 35.0 per cent. In the items affected by wage rates are found the following increases as compared with the previous year: In aggregate wages paid, 11.9 per cent; in average yearly earnings, 8.7 per cent; in average daily wages, 10.6 per cent; and in labor cost per ton, 14.7 per cent. In each of these items there was a considerable advance over the corresponding item for any year shown in the report (1896 to 1900).

For steel production in 1900 the amounts were, in gross tons, Bessemer, 3,488,569; open hearth, 2,702,968; crucible, 64,500; by other processes, 738. The total of 6,256,775 gross tons presented a decrease of 2.9 per cent as compared with the year 1899. The detailed figures indicate a tendency of the open-hearth process to supersede all others.

The production of iron and steel rolled into finished form amounted in 1900 to 6,649,475 net tons of a value of $249,736,207. This includes bars, rods, strip steel, skelp, shapes, rolled axles, structural iron, plates and sheets, including black plate for tinning, cut nails, cut spikes, rails, etc., but does not include billets or muck bar. The value of basic material was $154,203,643. In this line of industry 73,579 working people received $42,476,589, or an average of $577.29 per employee for the year's earnings. The average daily wages were $2.17. These figures are not comparable with the statistics for this branch of production for previous years, as a wider range of products is included in this report. Rejecting the matter reported on for this year only, and comparing the remainder with the corresponding data for the year 1899, there appears an increase of 4.5 per cent in the value of product and a decrease of 4.4 per cent in the number of tons produced. The average value per ton was 16.3 per cent greater, while the value of the basic material used showed a total increase of 7.9 per cent, or of 20.1 per cent per ton. The aggregate amount paid out in wages was 0.3 per cent less, but as the average number of employees was 2.9 per cent less, the average earnings for the year and the average daily wages were

increased 2.7 per cent and 8.2 per cent, respectively. The number of days in operation was 272 as against 287 for the previous year.

Seventeen black-plate works produced 312,002,000 pounds of tin plate in the year 1900, of which 264,306,000 pounds were tinned, the value of the same being $10,936,510. The remainder, 47,696,000 pounds, was disposed of in the untinned state, its value being $1,654,387. There were 7,394 working people employed for an average term of 199 days. The total wages were $3,526,934, being an average of $477 for each employee for the year, or $2.40 per day. As compared with the year 1899, the production fell off 15.4 per cent in quantity, though its value is 3.6 per cent greater. There was a decrease of 3.7 per cent in the number of working people, 13 per cent in the aggregate wages paid, and 9.6 per cent in the average yearly earnings. As the number of days in operation was 10.8 per cent less than in 1899, there was still shown an increase of 1.7 per cent in the average daily wages.

Six tin dipping works, buying all their black plate, produced 33,548,000 pounds of tin and terne, of a value of $2,107,987. These works employed 363 working people for 252 days, paying an aggregate of $134,700 in wages, the average yearly earnings per employee being $371.07. A comparison with 1899 shows a decrease of 10 per cent in the production and an increase of 7.2 per cent in the total value, and of 19.3 per cent in the value per 100 pounds.

Glass Production.—One hundred and twenty-seven establishments, with a capital of $22,162,429, were in operation 235 days during the year ending June 30, 1900, producing goods of a market value of $21,186,246. The labor cost was 49.79 per cent of the market value. Statistics of employees by classes are as follows:

NUMBER AND WAGES OF EMPLOYEES IN GLASS INDUSTRY, YEAR ENDING JUNE 30, 1900.

Class.	Number.	Aggregate wages.	Average earnings.	Average daily wages.
Skilled workmen	9,806	$6,982,521	$712.07	$3.03
Unskilled workmen	9,464	2,945,901	311.27	1.32
Females	1,633	322,169	197.29	.84
Children	2,130	297,666	139.75	.59
Totals and averages	23,033	10,548,257	457.96	1.95

Comparing the above statistics with those for 1890, compiled by the United States Census, the following percentages of increase appear: In capital, 68.3; in number of employees, 24.4; in aggregate wages, 20.8; and in value of product, 23.3.

Tables showing the range of daily wages in the glass industry by occupations, and the average daily wages in 90 different industries, complete the statistical presentations of this report.

RHODE ISLAND.

Fourteenth Annual Report of the Commissioner of Industrial Statistics, made to the General Assembly at its January session, 1901. Henry E. Tiepke, Commissioner. viii, 187 pp.

This report presents the following subjects: Statistics of textile manufactures, 53 pages; strikes, lockouts, and shutdowns, 22 pages; free public employment offices, 74 pages; public labor bureaus in England, 22 pages; population of Rhode Island, 4 pages.

TEXTILE MANUFACTURES.—Comparative statistics are given for the years 1898 and 1899 for 175 identical establishments, of which 84 were engaged in the manufacture of cotton goods, 10 in the manufacture of hosiery and knit goods, 18 were bleacheries and dye and print works, 5 manufactured silk goods and 58 woolen goods. A summary of the statistics given follows:

STATISTICS OF 175 TEXTILE MANUFACTURING ESTABLISHMENTS, 1898 AND 1899.

Items.	1898.	1899.	Increase.	
			Amount.	Per cent.
Single proprietors	35	33	*a* 2	*a* 5.71
Firms	38	31	*a* 7	*a* 18.42
Corporations	102	111	9	8.82
Proprietors, partners, and stockholders	1,813	2,809	996	54.94
Capital invested	$59,028,379	$71,930,155	$12,901,776	21.86
Value of material used	$31,328,608	$40,367,667	$9,039,059	28.85
Value of goods made and work done	$54,413,050	$68,746,795	$14,333,745	26.34
Aggregate wages paid	$13,082,887	$14,564,158	$1,481,271	11.32
Average days in operation	282.76	288.83	6.07	2.15
Employees:				
Average number	39,675	41,963	2,288	5.77
Greatest number	42,780	44,750	1,970	4.60
Smallest number	34,782	37,310	2,528	7.27
Average yearly earnings	$329.75	$347.07	$17.32	5.25

a Decrease.

STRIKES, LOCKOUTS, AND SHUTDOWNS IN 1900.—This is a chronological record of various labor troubles within the State, derived from reports given in the newspapers. No statistics are presented.

FREE PUBLIC EMPLOYMENT OFFICES.—Under this caption is found a general consideration of the subject, with extracts of reports of various State officials; statistics of the State offices of Ohio and Illinois, and some account of certain other agencies of similar nature but not under State control.

PUBLIC LABOR BUREAUS IN ENGLAND.—In this chapter is given an account of various labor bureaus or registries which are free but not supported by the Government, with a statistical summary of the operations of selected registries for the years 1897, 1898, and 1899.

WASHINGTON.

Second Biennial Report of the Labor Commissioner of the State of Washington, 1899–1900. W. P. C. Adams, Commissioner. 93 pp.

The present report consists of a large number of short chapters, mostly of one or two pages, relating to a great variety of subjects. Of those containing information relating to labor conditions the following are the most important: Condition of labor in the State, 4 pages; free employment offices, 9 pages; metal mining, 6 pages; agricultural products, 4 pages; flour milling, 3 pages; coal mining, 2 pages; wage scale for the State, 1 page.

CONDITION OF LABOR.—A general statement, based upon letters received from 43 labor organizations in the State, is given regarding the cost of living of working people, stability of employment, changes in wages and prices, etc.

EMPLOYMENT OFFICES.—An account is given of the municipal employment offices at Seattle, prepared by the municipal labor commissioner. This bureau found employment for 24,183 persons in 1898 and for 22,752 persons in 1899. The total expense of this service was $1,377.13 in 1898 and $1,332.61 in 1899.

METAL MINING.—Information is given regarding the cost of making pack trails, mine roads, tunnels and shafts, the wages of miners, and the percentage of metal in the gold, silver, copper, and lead ore mined. The wages of miners were reported from $3 to $3.50 per day for ten hours' work, and the wages of laborers, $2.50 to $3 per day.

AGRICULTURAL PRODUCTS.—Statistics are given of the acreage and the yield of certain crops in the State and of the wages paid for farm labor. On the east side of the Cascades regular farm laborers received $1 per day, and engineers and separator tenders $2.50 to $5 per day. On the west side of the Cascades regular farm laborers received from $1 to $1.50 per day, and engineers and separator tenders from $2.50 to $4 per day.

FLOUR MILLING.—Statistics are given for 21 flour mills in the State for the years 1898 and 1899. These 21 mills ground 4,332,196 bushels of wheat in 1899 and 5,264,001 in 1900, producing 859,961 barrels of flour in 1899 and 1,062,884 in 1900, and 94,967 tons of bran in 1899 and 96,267 in 1900. The wages of millers varied from $65 to $135 per month, and those of laborers from $48 to $70 per month.

COAL MINING.—Statistics are given showing the coal output in 1900, by counties, and the wages paid for different classes of mine labor. Miners employed by the day received from $2.25 to $3, and those on contract work earned from $2.50 to $4 per day.

WAGE SCALE FOR THE STATE.—A list of occupations of millmen, loggers, and other skilled and unskilled workers is given, and the maximum and minimum wages paid in each occupation.

RECENT FOREIGN STATISTICAL PUBLICATIONS.

BELGIUM.

Statistique des Salaires dans les Mines de Houille (Octobre 1896–Mai 1900). Office du Travail, Ministère de l'Industrie et du Travail. 1901. 104 pp.

The object of this report was to present a comparative study of the wages of coal-mine workers at the time of the industrial census of October, 1896, and in May, 1900. The year 1896 may be regarded as a year of average activity in the coal-mining industry in Belgium, while the year 1900 was one of exceptional prosperity. The present report, therefore, enables one to study the effect of such prosperity upon the wages paid in the industry.

While the census statistics cover all coal-mining enterprises in Belgium, the present comparative work covers returns from 63 out of a total of 110 enterprises, or 57 per cent, employing in 1896, 89,512 out of a total of 116,274 mine workers, or 77 per cent. Some of the 63 enterprises reporting in 1900 did not send wage returns of all their mines, and the wage data for such mines were, therefore, omitted from the comparative figures taken from the census returns. In this way the actual number of mine workers considered in the employ of the 63 mining enterprises was reduced to 88,287 in 1896. The same mines employed 100,138 mine workers in 1900. These figures constitute the basis for the statistics shown in the present report. The returns were made by the mine owners and not by the employees.

The detailed tables given in the report show for each coal-mining enterprise, and for each mining district in Belgium, and for the country as a whole, the total number of persons employed in the various classes of underground and surface work, grouped according to wage categories. Separate tables are given for male adults, female adults, boys under 16 years of age, and girls under 16 years of age. A second series of tables shows for each of the 10 principal occupations the proportion coming under each of the wage categories.

Following is a summary of the information given for the 63 mining enterprises considered:

EMPLOYEES OF 63 COAL-MINING ENTERPRISES IN 1896 AND 1900, ACCORDING TO WAGE GROUPS.

Wages per day.	Underground workers.		Surface workers.		All mine workers.	
	1896.	1900.	1896.	1900.	1896.	1900.
MALE ADULTS.						
Under 1.50 francs ($0.29)	155	8	374	135	529	143
1.50 to 1.99 francs ($0.29 to $0.384)	861	119	677	503	1,538	622
2.00 to 2.49 francs ($0.386 to $0.481)	2,860	642	2,341	942	5,201	1,584
2.50 to 2.99 francs ($0.483 to $0.577)	7,660	1,492	5,449	2,410	13,109	3,902
3.00 to 3.49 francs ($0.579 to $0.674)	16,456	3,084	3,466	4,684	19,922	7,768
3.50 to 3.99 francs ($0.676 to $0.770)	13,444	5,706	1,376	4,082	14,820	9,788
4.00 to 4.49 francs ($0.772 to $0.867)	11,235	12,077	801	2,064	12,036	14,141
4.50 to 4.99 francs ($0.869 to $0.963)	5,058	11,850	341	952	5,399	12,802
5.00 to 5.49 francs ($0.965 to $1.060)	1,888	7,716	222	584	2,110	8,300
5.50 to 5.99 francs ($1.062 to $1.156)	785	6,495	44	191	829	6,686
6.00 to 6.49 francs ($1.158 to $1.253)	439	6,061	38	133	477	6,194
6.50 to 6.99 francs ($1.255 to $1.349)	190	5,865	10	58	200	5,923
7.00 to 7.49 francs ($1.351 to $1.446)	263	5,047	13	15	276	5,062
7.50 to 7.99 francs ($1.448 to $1.542)	.....	2,612	.....	11	.....	2,623
8.00 to 8.49 francs ($1.544 to $1.639)	2	1,318	.....	6	2	1,324
8.50 to 8.99 francs ($1.641 to $1.735)	.....	771	.....	1	.....	772
9.00 to 9.49 francs ($1.737 to $1.832)	4	461	.....	.....	4	461
9.50 to 9.99 francs ($1.834 to $1.928)	.....	240	.....	1	.....	241
10.00 francs ($1.930) or over	.....	391	.....	3	.....	394
Total	61,300	71,955	15,152	16,775	76,452	88,730
FEMALE ADULTS.						
Under 1.00 franc ($0.193)	.....	.....	139	33	139	33
1.00 to 1.49 francs ($0.193 to $0.288)	41	1	2,330	859	2,371	860
1.50 to 1.99 francs ($0.290 to $0.384)	232	19	1,092	2,502	1,324	2,521
2.00 to 2.49 francs ($0.386 to $0.481)	392	4	59	430	451	434
2.50 to 2.99 francs ($0.483 to $0.577)	43	39	7	93	50	132
3.00 to 3.49 francs ($0.579 to $0.674)	.....	99	1	15	1	114
3.50 to 3.99 francs ($0.676 to $0.770)	.....	28	.....	12	.....	40
4.00 francs ($0.772) or over	.....	9	.....	.....	.....	9
Total	708	199	3,628	3,944	4,336	4,143
MALES UNDER 16 YEARS OF AGE.						
Under 0.50 franc ($0.097)	3	.....	7	.....	10	.....
0.50 to 0.99 franc ($0.097 to $0.191)	67	4	614	158	681	162
1.00 to 1.49 francs ($0.193 to $0.288)	1,521	368	929	822	2,450	1,190
1.50 francs ($0.290) or over	2,307	3,543	255	524	2,562	4,067
Total	3,898	3,915	1,805	1,504	5,703	5,419
FEMALES UNDER 16 YEARS OF AGE.						
Under 0.50 franc ($0.097)	.....	.....	3	1	3	1
0.50 to 0.99 franc ($0.097 to $0.191)	.....	.....	759	259	759	259
1.00 franc ($0.193) or over	3	1	1,031	1,585	1,034	1,586
Total	3	1	1,793	1,845	1,796	1,846
Total employees	65,909	76,070	22,378	24,068	88,287	100,138

Taking the most numerous class of mine workers, the male adults engaged in underground work, it is found that while in 1896 over three-fourths earned from 3 francs ($0.58) to 5 francs ($0.97), in 1900 less than one-half came within that class. Wages under 2 francs ($0.39) per day have almost disappeared, only 127 underground mine workers coming under that class in 1900, as compared with 1,016 in 1896. On the other hand, the returns for 1896 showed that no underground mine workers earned over 9.49 francs ($1.83), while in 1900, 631

came within that class. From the comparative figures obtained for male adults engaged in underground work, it is estimated that those earning less than 3 francs ($0.58) per day in 1896 had their wages increased about 1 franc ($0.19) per day, and those earning from 3 francs ($0.58) to 4.50 francs ($0.87), or about two-thirds of the entire number, have enjoyed an increase of from 1.50 francs ($0.29) to 3 francs ($0.58) per day. The increase of wages for male adult surface workers was about 1 franc ($0.19); for female adults working underground the increase varied from 1 franc ($0.19) to 1.50 francs ($0.29); for female adults doing surface work it was about 0.50 franc ($0.10); and for boys working underground, 0.50 franc ($0.10). The wages of boys doing surface work and of girls showed no considerable change.

While the number of men and boys engaged in underground mine work showed a considerable increase, the number of women and girls so employed decreased from 711 in 1896 to 200 in 1900. With regard to surface work, however, the number of men, women, and girls showed an increase and the number of boys a decrease from 1896 to 1900. On the whole, there was an increase in the number of men and girls, and a decrease in the number of women and boys employed in the 63 mining establishments considered.

FRANCE.

Poisons Industriels. Office du Travail, Ministère du Commerce, de l'Industrie, des Postes et des Télégraphes. 1901. 449 pp.

The first part of this report consists of a collection of practical suggestions with regard to industrial hygiene in establishments where poisonous substances are handled or noxious gases are generated. Each of the following substances are discussed: Lead, copper, zinc, mercury, arsenic, phosphorus, benzine, nitro-benzine, aniline, petroleum, tar, turpentine, vanilla, perfume essences, hemp, tea, picric acid, wood alcohol, tobacco, sulphureted hydrogen, carbonic oxide, carbonic acid, bisulphide of carbon, and anthrax virus. In each case a description is given of the nature of the poisonous substance, the manner in which the poisons are absorbed in the system or carried by the working people, the means to be adopted to guard against their dangerous effects, the symptoms of poisoning and methods of treatment, and the industries in which employees are exposed to poisonous substances.

The second part of the work is devoted to the reproduction of the laws and regulations of various European countries relating to dangerous occupations.

Legislation ouvriére et sociale en Australie et Nouvelle-Zelande. Mission de M. Albert Métin. Office du Travail, Ministère du Commerce, de l'Industrie, des Postes et des Télégraphes. 1901. vii, 200 pp.

This report represents the results of a study of labor and social legislation in Australia and New Zealand, by Mr. Albert Métin, who was commissioned by the Bureau of Labor of France to make a "study of the labor laws and in general the rôle of the States and the municipalities in the labor legislation in Australia and New Zealand." The study is based on a visit from April to October, 1899, to the colonies of South Australia, Victoria, Tasmania, New South Wales, Queensland, and New Zealand.

The author does not confine himself to the study of labor laws exclusively, but has made an investigation also of general measures by which the working class benefits to a large extent. Hence at the beginning of his report he has placed a chapter upon the general conditions of the countries studied and another chapter upon the land question, with special reference to the measures that have been taken in the interest of the small farmers. Other chapters deal with the labor question, including a history of labor organizations and the development out of their activities of the labor party in politics; the eight-hour day and the protection of workers; the minimum wage legislation of Victoria for the suppression of the sweating system; conciliation and arbitration, both the early efforts at voluntary conciliation, and the later compulsory measures in New Zealand; the question of the unemployed and the measures taken in dealing with the problem by labor colonies and grants of land to workers; pension funds, etc.; and the material and moral condition of the working people in Australasia.

While the report presents the results of an apparently careful study of the various subjects mentioned above, only those chapters relating to the Victorian and New Zealand minimum wage and compulsory arbitration laws will be referred to here.

The author finds the origin of these laws, as of practically all the radical labor laws in Australasia, in the appearance of a labor party in politics after the defeat of labor in the great maritime strike of 1890. In New Zealand, to be sure, the labor party has never been in actual control, but the reason is said to be the fact that the party in power has yielded to all the demands of the labor element and thus obtained and continued to hold their support.

The Victorian laws have already been sufficiently explained in Bulletin 38, page 152 *et seq.*, and again on pages 559, 560, preceding. The author notes two difficulties which have arisen in putting into effect the minimum wage rates, namely, the crowding out of the slow and unskillful workers and the problem of how to fix the wage for piece

work. With the working day reduced by law and with the minimum wage fixed for the day and for the hour, the employer can not be prevented from exacting more rapid and intense labor, even beyond the capacity of the slow and the unskillful. The application of the law has already indicated this danger, which will become greater as more and more machinery is employed.

An examination of official conciliation and arbitration in New South Wales, South Australia, and New Zealand leads the author to the conclusion—

(1) That conciliation and arbitration by the state has no efficacy except when compulsory; (2) that the employers are everywhere hostile to official conciliation, although many of them admit private conciliation; (3) that the workmen are favorable to official conciliation only in New Zealand. One may even say that throughout the world generally the labor organizations are opposed to conciliation by the state. Official conciliation and arbitration were proposed in 1899 at the congress of English trade unions and the proposal was rejected by a large majority. That vote was in accord with the sentiment of the labor organization leaders in the United States. All have declared to me that they would never give their approval for the state to impose upon them a settlement, because the state represents the interests of the employers. While recognizing that the government of New Zealand is favorable to the labor organizations, they considered them very imprudent in having accepted an intervention which might be turned against them if public opinion should take the side of the employers and pronounce in favor of a reduction of wages; then the court, deciding according to equity, the workmen would be obliged to submit without a struggle. Although such a case be little probable, it appears certain that the workmen of New Zealand, in accepting the law with so much favor, had intended chiefly to encourage industrial unions.

What they had in view in the law was less compulsory conciliation and arbitration than the means of rendering practically compulsory:

1. The union workman.
2. The collective contract between employer and labor organization in place of the individual contract between employer and isolated workman.
3. The introduction for one or two years in the contract of the custom of the industry; that is to say, of the advantages demanded with persistence by the labor organizations and sometimes granted by the employers under exceptional and temporary circumstances.
4. The minimum wages and the suppression of the sweating system.

A part of these wishes have been realized at Melbourne. In spite of the difference in the aims, the mixed boards of Melbourne and the conciliation boards of New Zealand ought to be compared. They are institutions of a different kind, but their spirit is the same; they tend toward ends which the most of European governments do not believe ought to be followed, and they are the two most original features in the labor legislation of Australasia.

GREAT BRITAIN.

Coal Tables, 1883 to 1899. 1901. 64 pp. (Published by the British Board of Trade.)

This report not only presents tables relating to coal, but also certain data as to lignite production and petroleum.

In the first part are found tables covering, for the period from 1883 to 1899, the principal European countries, Japan, the United States, and certain British colonies and possessions. The data include quantity and value, total and per ton, of coal produced; consumption, total and per capita; and the proportion of coal of home, British, and other foreign production consumed in the various countries. Tables showing exports of certain countries, amount of coal consumed for locomotive purposes, and amount brought to London are also given.

The total known coal production of the world is given at about 650,000,000 tons per annum.

The following table gives the production for the years 1898, 1899, and 1900 of the principal coal-producing countries of the world:

PRODUCTION OF COAL, IN TONS OF 2,240 POUNDS, FOR FIVE PRINCIPAL COAL-PRODUCING COUNTRIES, 1898, 1899, and 1900.

Year.	United States.	United Kingdom.	Germany.	France.	Belgium.
1898	196,406,000	202,055,000	94,762,200	31,314,500	21,733,000
1899	226,554,000	220,095,000	100,006,500	31,737,600	21,717,300
1900	*a* 245,422,000	225,181,000	107,469,600	*a* 32,063,300	*a* 22,976,700

a Provisional, subject to revision.

The amount of coal produced in 1898 in each country here shown, except the United Kingdom, where the production for 1897 was slightly greater than that for 1898, exceeds the production for any previous year appearing on the original table, which begins with the year 1883. The United States in 1899 surpassed, for the first time, the United Kingdom in the amount of coal mined, though in exportation and in per capita consumption the United Kingdom is still in the lead. For 1899 the amounts are, for exports from the United Kingdom, 55,810,000 tons; from the United States, 5,275,000 tons. In the same year the imports for the two countries were 2,000 tons and 1,311,000 tons, respectively. Germany is far ahead of the United States as an export country, the quantity for the same year being 16,483,000 tons, and the imports, 6,777,000 tons. Belgium also exported a greater number of tons than the United States, but imports reduced the net amount exported to a quantity below that of this country. The consumption per capita in the United Kingdom was 4.05 tons in 1899, the United States ranking next with a consumption of 3 tons. The gross

consumption of the two countries in 1899 was for the United Kingdom 164,287,000 tons and for the United States, 222,590,000 tons.

The number of persons finding employment in this industry is greater in the United Kingdom than in any other country, being for those engaged both above and below ground, 686,700 for that country in 1898, as against 401,221 in the United States for the same year. Germany ranked next in order, with 357,695 employees.

Lignite is of considerable commercial importance in Germany, France, Spain, Italy, and Austria-Hungary. The statistics given relate mainly to production, value, and number of employees.

Tables showing the production of petroleum in the United States, Russia, and Japan, in the first two countries for a period of 20 years, and in Japan from 1894 to 1898; also amounts imported, exported, and retained for home consumption in the United States and Russia, make up this part of the report.

In the following table is given the production, in gallons, for each country for the years indicated:

GALLONS OF CRUDE PETROLEUM PRODUCED IN THE UNITED STATES AND JAPAN, AND OF RAW NAPHTHA IN RUSSIA, 1894 TO 1898.

Year.	United States.	Russia.	Japan.
1894	2,072,470,000	1,559,431,200	7,240,800
1895	2,221,476,000	2,131,888,800	7,122,000
1896	2,560,335,000	2,146,858,800	9,927,600
1897	2,539,972,000	2,366,016,000	11,014,800
1898	2,325,298,000	*a* 2,446,852,800	13,383,600

a For the Baku district only.

Statistics Relating to Coal Mining, 1886 to 1900. 1901. 8 pp. (Published by the British Board of Trade.)

This report consists of seven tables, "showing for the United Kingdom and the principal coal-mining districts the quantity and value of coal produced, and the number and average wages of coal miners in each year, 1886 to 1900, together with the estimated amounts expended on miners' wages and remaining for other expenses and coal owners' profits in the United Kingdom in each year, with explanatory memorandum."

The following table presents data showing the number of employees, average weekly wages, amount and value of product, and amount per million tons of product expended on wages and remaining for other

expenses and owner's profits in the coal industry, for the year 1900, together with the annual average for the ten years 1890 to 1899:

EMPLOYEES, RATES OF WAGES, AND AMOUNT AND VALUE OF PRODUCT IN THE COAL INDUSTRY FOR 1900, AND AVERAGE FOR 1890 TO 1899.

Date.	Employees.	Average weekly wages.	Product.		Amount per million tons produced—	
			Amount (tons).	Value.	Expended on wages.	Remaining for expenses other than wages and for profits.
Average, 1890 to 1899	670,900	$6.65	191,073,000	$318,969,876	$1,167,960	$501,250
1900	759,900	8.25	225,170,000	592,004,859	1,391,819	1,236,091

The proportion expended on wages and the proportion remaining for other expenses and owners' profits in the coal-mining industry of the United Kingdom for each year in the period reported are given herewith, expressed in per cents:

PER CENT EXPENDED ON WAGES AND PER CENT REMAINING FOR OTHER EXPENSES AND OWNERS' PROFITS IN COAL MINING, 1886 TO 1900.

Items.	1886.	1887.	1888.	1889.	1890.	1891.	1892.	1893.	1894.	1895.	1896.	1897.	1898.	1899.	1900.
Wages	69.0	68.5	68.8	65.1	60.3	65.0	70.0	83.8	72.7	75.7	74.1	71.9	73.0	61.5	53.0
Other expenses and profits	31.0	31.5	31.2	34.9	39.7	35.0	30.0	16.2	27.3	24.3	25.9	28.1	27.0	38.5	47.0

ONTARIO.

Nineteenth Annual Report of the Bureau of Industries for the Province of Ontario, 1900. 47 pp. (Published by the Ontario Department of Agriculture.)

This report consists of two parts: Part I, relating to agriculture; and Part II, relating to chattel mortgages.

AGRICULTURE.—Under this head are presented statistics of the weather, crops, live stock, and poultry, the dairy and the apiary, labor and wages, values of farm property, market prices of products, etc.

For the year 1900 the value of land is reported at $574,727,610; of buildings, $219,488,370; of implements, $57,324,130; and of live stock, $123,274,821, each item showing an increase over the preceding year. The total is $974,814,931, a gain of $27,301,571 over the year 1899.

The average annual wages of farm laborers for 1900 were $155 with board, and $248 without board. Monthly wages during the working season averaged $16.57 with board and $25.73 without board. Domestic servants received an average of $6.65 per month. In each instance there is something of an advance over the year previous.

CHATTEL MORTGAGES.—There has been a steady decrease in the number of chattel mortgages since 1895. Their amount also decreased for the four years 1896 to 1899, but the year 1900 reports an increase of above $600,000. The number on record on December 31, 1900, was 17,321, their amount being $11,669,806. Of these 8,440, amounting to $3,110,543, were against farmers.

DECISIONS OF COURTS AFFECTING LABOR.

[This subject, begun in Bulletin No. 2, has been continued in successive issues. All material parts of the decisions are reproduced in the words of the courts, indicated when short by quotation marks, and when long by being printed solid. In order to save space, matter needed simply by way of explanation is given in the words of the editorial reviser.]

DECISIONS UNDER STATUTORY LAW.

EIGHT-HOUR LAW—MUNICIPAL CORPORATIONS—PAVING STREETS—*State v. Atkin, Supreme Court of Kansas, 67 Pacific Reporter, page 519.*—W. W. Atkin was convicted in the district court of Wyandotte County of a violation of what is known as the "eight-hour law" of Kansas, and appealed. This law provides "That eight hours shall constitute a day's work for all laborers, workmen, mechanics or other persons now employed, or who may hereafter be employed by or on behalf of the State of Kansas, or by or on behalf of any county, city, township, or other municipality of said State, * * *." Contracts made "by or on behalf of the State of Kansas, or by or on behalf of any county, city, township, or other municipality of said State," come under the same rule of law.

Atkin had a contract for the paving of a public street of Kansas City, Kans., a city of the first class, and had permitted a common laborer engaged in this work to work more than eight hours per day. The constitutionality of this law had been determined in the case, in re Dalton, 61 Kans., 257, 59 Pac., 336, 47 L. R. A., 380 (see Bulletin of the Department of Labor, No. 28, p. 610). The only question, therefore, was whether the city is such an agency of the State in doing the work contracted for as to bring the case within the principle of the case above mentioned. In the course of his remarks, in which he sustained the decision of the court below, Judge Smith, who delivered the opinion of the court, said:

> The law which appellant [Atkin] violated must have its application in the light of the fact that municipal corporations are the creatures of the State. The legislature gives them being. They let contracts for the improvement of streets under express authorization of the legislature, and could not do so in the absence of such authority. It is and always has been the duty of the State to lay out and improve highways of travel. The city in contracting to pave Quindaro boulevard, exercised delegated authority, and acted as an agent for the State. If the State had been doing this work, it can not be denied that it might, at its pleasure, have given the current rate of per diem wages in the city for eight hours' work. This is the principle of the Dalton case.

The judgment of the court below will be affirmed.

EIGHT-HOUR LAW—PAYMENT OF DEPUTY SHERIFFS—CONSTRUCTION OF STATUTE—*Christian County v. Merrigan, Supreme Court of Illinois, 61 Northeastern Reporter, page 479.*—Suit was brought by Lawrence Merrigan against the county of Christian of the State of Illinois to recover compensation for services, etc., while he was acting as a special deputy sheriff during the progress of a strike at Pana, in said county, in 1898. The first count of his declaration alleged the time of his service to have been one hundred and twenty-four days and the second count one hundred and fifty days of eight hours each. Each count alleged that he was entitled under a statute of the State to compensation at the rate of $2 per day. In the trial court a judgment was rendered in his favor under the first count, and upon appeal to the appellate court of the third district of Illinois this judgment was affirmed. The county then appealed the case to the supreme court of Illinois, which rendered its decision October 24, 1901, and affirmed the judgments of the lower courts. Merrigan himself appealed on the ground that the judgment in his favor should have been rendered under the second count of his declaration, which claimed compensation for one hundred and fifty days of eight hours each. From the standpoint of labor this is the only interesting point in the case and the grounds of the plaintiff's appeal, as well as the reasons for the decision of the supreme court denying it, are set forth in the opinion of the court, delivered by Judge Carter, who used the following language:

Appellee [Merrigan] has assigned cross errors, and contends that the act making eight hours a legal day's work (Hurd's Rev. St. 1899, p. 840) applies, and that he should have been permitted to recover, under the second count, for one hundred and fifty days of eight hours each; that is, that the plaintiff should have been permitted to divide the days into periods of eight hours when he was engaged in his duties as deputy, and thus permitted to recover, under the statute, for as many days as there were periods of eight hours' actual service. This point was also correctly decided below. We agree with the appellate court in its holding that the statute has no application to cases of this kind (Phillips *v.* Christian County, 87 Ill. App. 481), but that it is confined to mechanical trades, arts, and employments, and other cases of labor and services of like character, and does not embrace services of an official character. Moreover, if the eight-hour statute applied, appellee performed the services required of him each day without any agreement (even if there could be such agreement in such a case) that he should be paid for extra time. In the absence of such an agreement or contract no recovery could be had for extra time employed over eight hours during the same day. We are of the opinion that the per diem required by the statute to be paid for the time actually employed was only for one day in each twenty-four hours.

EMPLOYERS' LIABILITY—EMPLOYMENT OF CHILDREN—NEGLIGENCE—DAMAGES—*Ornamental Iron and Wire Co. v. Green, Supreme Court of Tennessee, 65 Southwestern Reporter, page 399.*—Luther Green, a

minor, sued by his next friend to recover damages for an injury received while in the service of the above-named company. At the time of the injury, which resulted in the amputation of a leg, Green was under 12 years of age. Green claimed to have received the injury while going to a yard belonging to the company on an errand for his superior, and that while passing certain heavy panels of fence placed there by the company he stumbled against the panels so that they fell on him, causing the hurt complained of.

On the other hand, the company maintained that he was in the yard without orders, and while carelessly playing with the panels of fence pulled them over upon himself and was thus injured. Damages were awarded in the circuit court of Hamilton County to the amount of $3,000. The defendant thereupon appealed to the supreme court, which affirmed the judgment of the lower court.

The following is quoted from the remarks of Judge Beard, who delivered the opinion of the court:

By section 1, C. 159, acts 1893 (Shannon's Code, sec. 4434), it is provided that it shall be unlawful for any proprietor, foreman, owner, or other person to employ any child, less than 12 years of age, in any workshop, mill, factory, or mine in this State; while section 3 of the act (Shannon's Code, sec. 4436) provides that any proprietor, foreman, or owner "employing a child less than twelve years of age * * * shall be guilty of a misdemeanor." An act similar to this was considered in Queen *v.* Iron Co., 95 Tenn. 458, 32 S. W. 460, 30 L. R. A. 82, 49 Am. St. Rep. 935. In that case it was held that the employment of an infant under 12 years of age, in violation of a statute forbidding such employment, and declaring it a misdemeanor, constitutes per se such negligence as makes the employer liable for all injuries sustained by the infant in the course of his employment. This holding was made after a careful examination of the authorities, and we see no reason to depart from it.

The very employment is a violation of the statute, and every injury that results therefrom is actionable. In the case presented by the plaintiff below, as well as in that adduced by the defendant company, the connection between the employment and the injury is that of cause and effect, and brings the complaint within the operation of the statute.

It is further insisted that the verdict is excessive. We are unable to say that a verdict against the wrongdoer of $3,000, in favor of a boy who, before he reaches the age of 12 years, loses a leg, is the result of caprice, prejudice, or corruption on the part of the jury. This being so, we are not authorized to disturb it.

EMPLOYERS' LIABILITY—NEGLIGENCE—ASSUMPTION OF RISK BY EMPLOYEE—*Moon-Anchor Consolidated Gold Mines, Limited, v. Hopkins, United States Circuit Court of Appeals, Eighth Circuit, 111 Federal Reporter, page 298.*—In this case the plaintiff, Mary A. Hopkins, brought suit to recover damages, under the statute of Colorado, for the death of her son, Phineas Hopkins. The above-named company,

in whose employ Hopkins was at the time of his death, had been engaged in excavating a chamber in its mine, and, after the proper size had been excavated except as to height, the only support that had been left for the roof was blown out on the 18th of March. Rock then fell in large quantities and continued to fall from time to time. Workmen were set about the placing of timbers to support the roof, removing the fallen rock as they advanced. Hopkins was 20 years of age, not an experienced miner, and was engaged in operating a car for the removal of the loose rock. The workmen were directed not to go beyond the protection of the timbers, and were furnished with long-handled hooks with which to pull out the rock without exposing themselves. While thus engaged Hopkins was instantly killed by a piece of rock which fell from above outside the timbers, and, striking on a pile of rock, was deflected under the timbers to where he was standing.

It was brought out at the trial court that the progress in excavation without the provision of timbering and the blowing out of the supporting pillar before supporting structures were put in had been done in spite of warnings by the head timberman and a shift boss. The court held, however, that the method of making the original excavation was not the proximate or actuating cause of the death of the plaintiff's son; and that if the evidence showed reasonable care and diligence in its later proceedings for clearing and timbering the room, and that Hopkins knew or might reasonably have known the nature of the undertaking, then he must be held to have assumed the increased hazards incident to putting the room in a reasonably safe condition. The jury, however, brought in a verdict of damages for the plaintiff, and the company appealed. Judges Sanborn and Adams concurred in reversing the judgment and remanded the cause with directions to grant a new trial, Judge Thayer dissenting.

In announcing the majority opinion, Judge Adams said, in part:

The measure of duty and obligation of a master to his servant, when the work voluntarily undertaken by the servant consists in making a dangerous place safe, is materially changed from that prevailing under the general rule. It may be that negligence in making the original excavation occasioned the new risks and hazards to which plaintiff's son voluntarily subjected himself, but it can not, in our opinion, be true that the first-mentioned negligence, remote not only in time but in connection with the injury, was the actuating cause, when it appears that the deceased of his own free will determined to cope with these risks and hazards, and for a price satisfactory to him assumed the liability incident to them. In this, his own voluntary conduct, is found the intervening proximate and responsible cause of his injury. The deceased, by voluntarily engaging in the work of making a dangerous place safe, assumed all the risks attending it which were known to him, or which by the exercise of ordinary care and foresight might have been known to him.

As showing the views of Judge Thayer, the following extracts are given:

I am unable to concur in the foregoing opinion of the majority. The principal proposition which is enunciated in the majority opinion is that the negligence of the defendant company, conceding it to have been negligent, was not the proximate cause of the injury. This proposition implies, of course, that, after having rendered the excavation needlessly unsafe by failing to shore up the roof with timbers as the work of excavation progressed, the defendant could then call upon its employees to make it safe, and, if they were hurt while so doing, assert that it was not its fault. I have not been able to conclude that this is either a sound or a just doctrine. The cases cited in its support are cases where the place was rendered unsafe without the master's fault, as where in doing some necessary work in a proper manner the place where the servant worked was rendered temporarily insecure. In the case in hand the place was needlessly made unsafe by the master's negligence. In the light of these facts the only charge, as it would seem, that ought to be brought against the deceased, is that he was guilty of contributory negligence in consenting to work in such a place, rather than that his consenting to do the work which he was ordered to do was the sole efficient cause of his death. He was a young man (not yet 21 years old) and inexperienced in mining; and he was in company with experienced miners, whose presence and example would naturally have much influence on the conduct of a young man of his age. Under these circumstances no court ought to say, as a matter of law, that he was guilty of contributory negligence in being where he was at the time of his death. Whether he was thus guilty was, in my opinion, a question for the jury; and that question was decided by the jury in his favor, and, as I think, correctly decided. The judgment below ought to be affirmed.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—NEGLIGENCE—*Baltimore and Ohio Railroad Co. v. Burris, United States Circuit Court of Appeals, Sixth Circuit, 111 Federal Reporter, page 882.*—In this case Burris, who was the conductor of a freight train in the service of receivers of the railroad company, sued by way of an intervening petition to recover damages for an injury received in consequence, as he alleged, of the negligence of the receivers, and judgment in the sum of $5,000 was awarded. The company objected that liability, if any, rested upon the receivers and not upon the company; but inasmuch as the company had resumed control of the road on condition that it should pay off and satisfy all debts and obligations incurred by the receivers, which might be adjudged by the court to be valid charges against the receivers, this objection was overruled. It was testified during the trial that as the train of which Burris was conductor was leaving the yard at the station, an employee of the company called out to those on board signifying that something was wrong, but did not make himself clearly understood. A brakeman

who heard him and spoke of the matter to the conductor, who was reading his waybills in the caboose, was directed to go forward and see if he could discover any cause for the warning. It was found that a brake beam upon a car at about the middle of the train was down and one end dragging upon the track. As soon as the conductor was informed of this, he went forward and tried to signal the engineer to stop the train. Before he succeeded in doing this, the car reached a bridge and the dragging beam threw it from the track, breaking the trestle, and the conductor fell with it into the ravine and was badly hurt. The defense of the company rested on two principal grounds: First, that the rules required the conductor to see that his train was in proper running order before starting, and that he must have neglected this duty and was therefore not entitled to recover; second, that he was guilty of negligence in sending forward a brakeman instead of going himself to discover the occasion of the warning.

On these points Judge Severens, who delivered the opinion of the court, said:

Respecting the contention that the conductor was to be held conclusively negligent in not discovering by inspection of his train that the brake beam was down, it is to be observed, in the first place, that by a statute in Ohio, where the injury happened, a prima facie presumption is raised that any such defect as this existed and was continued by the negligence of the company.

After citing the statute (Bates' Rev. St., sec. 3365–21), and stating that by this statute the burden of proof of want of knowledge of an existing defect and of due diligence in ascertaining it is cast upon the company, he cited the rule of the company requiring freight conductors to see that trains are ready before starting, and continued:

It is contended that if Burris had performed the duty enjoined by this rule, he would have seen that the brake beam was out of place, and saved himself from suffering the injury. But it is obvious that it is not intended by this rule that the conductor should critically examine the several cars in his train, and the attachments thereto, with that degree of particularity which measures the duty of the company itself. Other employees (the car inspectors) are charged with that special duty, and, besides, the time prescribed [forty minutes] for his preparations for leaving would frequently, if not ordinarily, be insufficient for him to make such thorough examination in addition to the other duties imposed upon him for execution within the time mentioned. From the evidence the jury might have not unreasonably concluded that the brake beam had not fallen down when the train started; for, if it had, the indication would have been so manifest that the conductor could hardly have failed to notice it. And yet the jury might have been satisfied that its hangings were weak or insecure, and that, if thorough inspection had been given, the fact would have been discovered, but that the defect was not so apparent that the plaintiff ought to be charged with fault in not seeing it.

As to the second point mentioned above, the court said:

It was a question for the jury to determine whether the probability of danger in what the brakeman told him he had heard was such that the conductor was guilty of negligence in sending the brakeman to find out what the matter was instead of going himself. We can not hold that the court was wrong in refusing to say that the only reasonable conclusion was that the conductor was at fault. No error being found in the record, the judgment must be affirmed, with costs.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—NEGLIGENCE—ASSUMPTION OF RISK—*Southern Railway Co. v. Johnson, Supreme Court of Georgia, 40 Southeastern Reporter, page 235.*—Putnam Johnson sued in the superior court of Haralson County to recover damages for an injury received while in the service of the above-named company. Johnson was struck by a piece of slag which had been improperly placed as ballast and was thrown against him by a moving train. He was in his proper place of service, and the slag had been so placed by other employees of the defendant company. Damages were awarded, and from this judgment the company appealed. The supreme court affirmed the judgment of the court below, Judge Little delivering the opinion. After quoting from the civil code, section 2323, which provides that if a person injured by a railroad company is himself an employee of that company, and the damage was caused by another employee and without fault on the part of the person injured, his employment shall be no bar to recovery, he then said:

It is contended that the injury to the defendant in error, occasioned as it was, creates no liability on the part of the railroad company; that the defendant in error, by his employment, assumed the risk of such injuries. We think not. The petition alleged and the proof showed that the defendant in error at the time the injuries were sustained was not at fault. The defective work which was the cause of the injury was not his, but was done by others at practically another place. The risks which an employee of a railroad company necessarily assumes as incident to his occupation are not those which are occasioned by the incompetence or negligence of other employees. On the contrary, as is seen above, the company is liable to an employee who without fault is injured by the careless or negligent act of another employee.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—WANTONNESS OR INTENTIONAL WRONG — CONTRIBUTORY NEGLIGENCE — DUTY OF EMPLOYERS TO PROVIDE RULES FOR SIGNALS—*Louisville and Nashville Railroad Co. v. York, Supreme Court of Alabama, 30 Southern Reporter, page 676.*—This was an action brought by Mary E. York, administratrix, against the above-named company to recover damages for the death of her deceased husband. Damages were awarded in the circuit court of Jefferson County.

The third count of the complaint was based on the company's neglect to provide a proper system of rules for signaling to engineers in its switch yards; the fourth charged willful wrong on the part of the engineer by whose action the death was caused; the sixth count averred that the deceased, while rightfully in the discharge of his duties, was crushed and killed between two cars by reason of the carelessness of the engineer in charge of one of the defendant's engines. Each of these counts was demurred to, and on the refusal of the court to grant a new trial, the case was carried on appeal to the supreme court of Alabama, by which the judgment of the lower court was affirmed.

Chief Justice McClellan used the following language in delivering the opinion of the court:

The position taken by counsel for appellant that there can be no recovery for wantonness, willfulness, or intentional wrong under said [the employers' liability] act, now section 1749 of the Code, has been adjudged untenable in the recent case of Railway Co. *v.* Moore (Ala.) 29 South. 659.

The portion of the act referred to that is here applicable, reads as follows:

Section 1749. When a personal injury is received by a servant or employee in the service or business of the master or employer, the master or employer is liable to answer in damages to such servant or employee, as if he were a stranger, and not engaged in such service or employment, in the cases following:

5. When such injury is caused by reason of the negligence of any person in the service or employment of the master or employer, who has the charge or control of any signal, points, locomotive, engine, switch, car, or train upon a railway or of any part of the track of a railway.

The court continued:

The further contention for appellant that, even granting that a recovery in this class of cases may be vested upon wanton, willful, or intentional misconduct, yet inasmuch as such recovery is a punishment of the employer for the willful wrong of one employee, causing the death of another employee, it should never be allowed when the injured party's own negligence contributes to the result, proceeds on the mistaken idea that such recovery is punitive, which it is not, but purely compensatory; and the theory is that the employer should make compensation for injuries purposely inflicted, notwithstanding negligence on the part of the injured party, because the injury is in no degree ascribed to such negligence, but is the result solely of the effectuation of the evil purpose of the wrongdoing employee. The position, to our minds, takes no account of the consideration that negligence on the part of the injured employee can only coalesce and combine with the same quality of act on the part of the employee inflicting the injury—with his negligence, and not with his intentional wrong—to the relief from liability of the common employer; and it is in the teeth of numerous decisions of this court. Upon the foregoing considerations we rest our conclusion that the fourth count states a cause of action, and that the intestate's negligence is no defense to it.

The third count also states a cause of action, in our opinion. It is not drawn under the employers' liability act, but counts upon the duty which the defendant directly owed its employees, and neglected to perform, to establish and promulgate rules and regulations for signaling to engineers of switch engines, in a yard where there were many tracks, and where two or more engines are employed near each other at night, so that the engineers would be able to distinguish the signals intended for them respectively, it being averred in the count that the signals used were the same for all the engineers, and that plaintiff's intestate was killed in consequence of the engineer of the engine with which the intestate was working mistaking a signal intended for another engineer, and moving his engine accordingly.

The sixth count shows with sufficient clearness and certainty that intestate was rightfully between two cars, and that the engineer so negligently and carelessly operated his engine as to cause said cars to come together, thereby crushing and killing intestate. The demurrer to this count was properly overruled.

EMPLOYMENT AGENCIES—LICENSES—CONSTITUTIONALITY OF STATUTE—*Price v. People, Supreme Court of Illinois, 61 Northeastern Reporter, page 844.*—In this case George W. Price was convicted in the criminal court of Cook County of maintaining a private employment agency in the city of Chicago without having obtained a license. Section 10 of a law approved April 11, 1899, in force July 1, 1899 (Hurd's St., 1899, p. 848), provides that, "No person, firm, or corporation in the cities designated in section 1 of this act [cities of not less than fifty thousand population] shall open, operate, or maintain a private employment agency for hire, or where a fee is charged to either applicants for employment or for help, without first having obtained a license from the secretary of state, which license shall be $200 per annum, and who shall be required to give a bond to the people of the State of Illinois, in the penal sum of $1,000 for the faithful performance of the duties of private employment agent."

Trial by jury was waived and certain propositions of law were submitted to the court to the effect that the indictment did not charge the commission of any offense known to the law of Illinois; that the section of law under which the indictment was drawn was void for unconstitutionality, and that it was unreasonable, oppressive, and prohibitive, and not regulative. On the refusal of the court to assent to these propositions and the entering of judgment, the defendant appealed.

Judge Boggs affirmed the sentence of the court below, using in part the following language in announcing the finding of the supreme court:

It is an attribute of sovereign power to enact laws for the exercise of such restraint and control over the citizen and his occupation as

may be necessary to promote the health, safety, and welfare of society. This power is known as the "police power." In its exercise the general assembly may provide that any occupation which is the proper subject of the power may not be pursued by the citizen, except authorized by a license issued by public authority so to do. Such enactment may require the payment of a fee, and the execution of a bond with security, conditioned in view of the objects and purpose of the act, as a prerequisite to the issuance of such license. What occupations are the proper subjects of this power is a judicial question. (Town of Lake View *v.* Rose Hill Cemetery Co., 70 Ill. 191, 22 Am. Rep. 71; Ritchie *v.* People, 155 Ill. 98, 40 N. E. 454, 20 L. R. A. 79, 46 Am. St. Rep. 315; Booth *v.* People, 186 Ill. 43, 57 N. E. 798, 50 L. R. A. 762.) That the public welfare demands legislation prescribing regulations and restrictions to protect against the evils of imposition and extortion which have manifested themselves in the conduct of private employment agencies is not contradicted by counsel for plaintiff in error, but such counsel contend that the license fee imposed by said section 10 of the act is enacted for the primary purpose of raising revenue, and not as a means of enforcing any police regulation. The argument is that the license fee of $200 has no relation to the cost of enforcing this regulation, but is an oppressive, arbitrary exaction on the occupation, and is in contravention of the guaranties of both the Federal and State constitutions that "no person shall be deprived of life, liberty or property without due process of law." (Const. U. S., Amend. 5; Const. Ill., art. 2, sec. 2.) The position of the attorney-general is that the general assembly is vested with the absolute and unrestricted power to determine what the license fee shall be, and that the judgment and discretion of the legislature, as expressed in the act, are conclusive as to the reasonableness thereof. What amount the applicant for a license shall be required to pay as a license fee is plainly committed to the general assembly for determination, and the action of that department of the State government is conclusive, except, beyond serious doubt, it is manifest that the amount of the fee has been in any particular instance established not with regard to the purpose of regulation of the occupation, with the view of protecting the public welfare, but with the real purpose to raise revenue under the guise of the police power, or to subvert the proper exercise of that power to the prohibition, by means of oppressive license fees, of the right of the citizen to exercise a lawful calling, in violation of the constitutional guaranties against the destruction of the liberty and property right of a citizen. This court would not assume to enter upon the consideration of the question, pure and simple, whether the legislative mind and judgment were at fault in determining the amount to be required as a license fee for the purpose of reguating an occupation in the interest of the welfare of the public. If errors or defects of this character exist in an enactment, the remedy is by way of an application to the general assembly, when again convened, for the repeal or modification of the ill-advised provision.

ENTICING SERVANT—EVIDENCE—*Broughton v. State, Supreme Court of Georgia, 39 Southeastern Reporter, page 866.*—In the city court of Lexington, Moses Broughton was convicted of the statutory offense

of enticing away a servant. On writ of error the case was taken by defendant to the supreme court, where the judgment was reversed.

The following portion of the syllabus prepared by the court presents the main point in the case:

1. An essential element of the offense defined in section 122 of the penal code is enticing, persuading, or decoying the servant of another to leave his employer during his term of service; and proof of such facts as establish that the accused did one of these things is essential to sustain a conviction of the offense therein defined. Hence a conviction under this section can not lawfully stand where the evidence in this regard shows no more than that the servant left the place of his employment in company with the accused.

FACTORY INSPECTOR—FIRE ESCAPES—CONSTITUTIONALITY OF STATUTE—*Arms v. Ayer, Supreme Court of Illinois, 61 Northeastern Reporter, page 851.*—In this case Aura C. Arms sued in the superior court of Cook County to recover damages for the death of her intestate, who had lost his life while in the employment of Ayer, by the burning of the defendant's factory. The cause of action was based on the alleged violation of the fire-escape act, approved May 27, 1897 (Laws 1897, p. 222), which requires fire escapes on buildings four or more stories in height, except such as are used for private residences exclusively, and on buildings more than two stories in height used for manufacturing purposes. The law further provides that permits for the erection of fire escapes shall be obtained from the factory inspector, who shall state, in granting the permits, the number, location, material, and kind and manner of construction of such fire escapes. Deceased was employed on the upper floor of a seven-story building, and his death was alleged to be due to the lack of a proper compliance with the requirements of the law. Ayer was held not responsible for his employee's death and the plaintiff appealed, obtaining a reversal of judgment and a mandate for a new trial.

Chief Justice Wilkin delivered the opinion of the court, a portion of which is quoted herewith. Referring to the attack on the constitutionality and validity of the law in question, he said:

The first objection made to the statute by counsel for appellees is that it imposes legislative power upon the inspector of factories, in that it authorizes him to determine how many, and in what position, fire escapes shall be placed, etc. It is impossible for the legislature to describe in detail how many fire escapes shall be provided, how they shall be constructed, and where they shall be located, in order to serve the purpose of protecting the lives of occupants, in view of the varied location, construction, and surroundings of the buildings; and hence, so far as we have been able to ascertain, acts similar to the first section of this statute have been sustained in other States, though perhaps the question here raised has never been directly presented. The general rule is that a statute must be complete when it leaves the legislature,—as to what the law is,—leaving its execution to be vested in

third parties. Thus it was said in Dowling *v.* Insurance Co., 92 Wis. 63, 65 N. W. 738, 31 L. R. A. 112: "The result of all the cases on this subject is that a law must be complete in all its terms and provisions when it leaves the legislative branch of the government and nothing must be left to the judgment of the electors, or other appointee or delegate of the legislature, so that in form and substance it is a law in all its details in praesenti, but which may be left to take effect in futuro, if necessary, upon the ascertainment of any prescribed fact or event." And it is said in Suth. St. Const. sec. 68: "The true distinction is between a delegation of power to make the law, which involves a discretion as to what the law shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first can not be done. To the latter no objection can be made." In this act the law is complete in all its details, requiring the fire escapes to be put in certain buildings. In the execution of the law the inspector of factories is given a discretion as to the number, location, material, and construction of such escapes in each and every building. We are unable to see in what way the act, thus understood and construed, delegates to the inspector of factories legislative powers.

Of still less force is the objection that the act confers judicial power upon the inspector of factories. The inspector is given no power to judicially determine any question, but acts ministerially in the supervision of the building of fire escapes.

A further objection, that the statute is local or special, is, we think, without force. "Laws are general and uniform, not because they operate upon every person in the State, for they do not, but because every person who is brought within the relations and circumstances provided for is affected by the laws. They are general and uniform in their operation upon all persons in the like situation and the fact of their being general and uniform is not affected by the number of those within the scope of their operation." (People *v.* Wright, 70 Ill. 388.) This act applies to all buildings "four or more stories in height, excepting such as are used for private residences exclusively," with a proviso "that all buildings more than two stories in height, used for manufacturing purposes," etc., shall have fire escapes. The act can not be held to be local, nor is it special in its enactment; nor can we see in what sense it does not operate uniformly.

"Labor Law"—Public Contracts—Constitutionality of Statute—Interstate Commerce—*People ex rel. Treat v. Coler, Court of Appeals of New York, 59 Northeastern Reporter, page 776.*—Ralph J. Treat contracted with the State of New York to construct a certain sewer under the provisions as to inspection and acceptance usual in such cases, which being complied with, he filed a proper certificate in the office of the comptroller, asking for a warrant on the chamberlain for the sum due. This was refused on the ground of a violation of section 14 of the labor law (chapter 415, laws of 1897), which provides that "all stone of any description, except paving blocks and crushed stone, used in State or municipal works in this State, or which

is to be worked, dressed, or carved for such use, shall be so worked, dressed, or carved within the boundaries of the State." A clause was inserted in the contract with Treat, reciting the above provision, violation of which would, under the statute, discharge the city from any liability under the contract.

In doing the work contracted for, Treat purchased and set a sewer basin of granite, cut, dressed, and carved in the State of New Jersey, and for this reason the comptroller withheld the warrant. Suing for a mandamus to compel the issue of the warrant, the comptroller being upheld, Treat appealed to the appellate division of the supreme court. Here the order denying the writ was reversed, and Coler, the comptroller, appealed in turn to the court of appeals of the State, where the claim was confirmed and the provision of law above cited was held to be unconstitutional, Chief-Justice Parker dissenting.

Justice O'Brien in delivering the opinion of the court said:

It is not necessary to examine the questions involved in the defendants' answer to the application for the writ, since they have just been examined and passed upon in another case. (People ex rel. Rodgers *v.* Coler, 166 N. Y. 1, 59 N. E. 716 [see Bulletin No. 35, U. S. Department of Labor, page 805].) This case, however, presents a new and additional question, which was not involved in the Rodgers case.

It will be seen by the provisions of the statute, that the city and the contractor have, in effect, been forbidden to purchase a granite sewer basin that had been dressed or carved in any other State. The stone used in such work must be dressed or carved within the jurisdiction of this State, and, if the contractor ignores the statute and procures dressed or carved stone in another State, the city is directed to revoke his contract, and thereupon it shall be discharged from all liability to pay him for the work. We think that this statute is void, not only for the reasons stated in our decision in the case cited, but for the further reason that it is in conflict with the commerce clause of the Federal Constitution. It is a regulation of commerce between the States which the legislature had no power to make. The citizens of this State have the right to enter the markets of every other State to sell their products, or to buy whatever they need, and all interference with the freedom of interstate commerce by State legislation is void. The provision of the contract whereby the contractor agreed to do what the statue required is only a part of the legislative scheme to compel municipalities and contractors to use only such stone as was cut, carved, or dressed within this State in the construction of public works, and consequently is subject to the same objection as the statute itself. The contractor's agreement rests upon the statute, and must fall with it.

The order should be affirmed, with costs.

LOGGERS' LIEN—WHO ARE LABORERS—CONSTRUCTION OF STATUTE—*Meands v. Park et al., Supreme Judicial Court of Maine, 50 Atlantic Reporter, page 706.*—In this case Nathan L. Meands undertook to enforce a lien under the statute, chapter 91, sec. 38, Rev. St., as

amended by chapter 183, laws of 1889, which provides that "whoever labors at cutting, hauling, rafting or driving logs or lumber, * * * has a lien on the logs or lumber for the amount due for his personal services." The case was submitted to the supreme judicial court of Franklin County on an agreed statement of facts, in which it was stated "that the plaintiff performed no personal manual labor on the logs attached, but was for three days of the time a scaler at $2.50 per day, and the balance of time, to wit, sixty days, at $2.50 per day, was foreman or superintendent of the entire logging operation, having charge of the men, etc." On this statement the plaintiff was nonsuited and appealed. The supreme court of the State affirmed the conclusion of the court below. The following syllabus, marked "official" presents in brief the finding of the court and the reasons therefor:

1. The statute giving a lien to those who "labor" at cutting or hauling logs was obviously designed to afford protection to common laborers who gain their livelihood by manual toil, and who may be imperfectly qualified to protect themselves. The word "labor" was undoubtedly employed by the legislature in its limited and popular sense, to designate this class of workmen who labor with physical force in the service and under the direction of another for fixed wages, and such is the primary or specific lexical meaning uniformly assigned to the word "laborer."
2. Where the plaintiff "was foreman or superintendent of the entire logging operation, having charge of the men engaged in cutting and hauling the logs" but "performed no personal manual labor on the logs attached," *held*, that he did not "labor" in cutting or hauling the logs within the meaning of the statute.
3. Nor did he labor at cutting and hauling logs while acting as scaler.

MECHANICS' LIENS—LIMITATIONS—COMPLETION OF WORK—*General Fire Extinguisher Co. v. Schwartz Bros. Commission Co. et al., Supreme Court of Missouri, 65 Southwestern Reporter, page 318.*—The commission company above named had contracted to build an addition to an elevator in the city of St. Louis and to equip the same with a "complete sprinkling system for putting out fire, * * * such system to be satisfactory to the St. Louis board of underwriters." The contract for the installation of such an apparatus was sublet to the General Fire Extinguisher Co., plaintiff in this suit to establish a mechanic's lien. The point at issue was whether or not the lien was filed within four months after the indebtedness accrued, as prescribed by the mechanics' lien law. During the trial it appeared that the work done by the plaintiff company had been examined on July 23, 1896, by the inspector for the board of underwriters and pronounced satisfactory, with the exception of the covering of certain steam coils. On the promise of the company to attend to this matter later, the inspector

pronounced the work complete and the system was immediately put into operation. About November 1 another inspector visited the elevator and found the apparatus not satisfactory in its workings. The elevator company investigated the matter and found that certain air gauges called for in the contract had not been put in and a demand was made on the subcontractors that these be supplied. Gauges were accordingly put in on November 7. On the 9th it was reported that a glass tube in one was broken and must be replaced, and on the 12th a defective valve was removed and a perfect one provided. Notes given to secure payment for the work done by the fire extinguisher company were not paid when due, and on March 12 following the company filed a mechanic's lien and on suit it secured judgments in the St. Louis circuit court awarding the amount claimed and establishing the lien. From the judgment establishing the lien the owners of the property appealed, raising the point that the time for filing the lien had expired.

Judge Valliant delivered the opinion of the supreme court, affirming the judgment of the court below. From his remarks the following is quoted:

Under the terms of section 4207, Rev. St. 1899, the lien of the subcontractor must be filed within four months "after the indebtedness shall have accrued." This, as the learned counsel for appellants rightly maintain, means within four months after the work is finished, and does not refer to the date at which the debt is due. The counsel are also correct in their position that when the building is substantially completed, and the contractor tenders it as complete, and it is accepted as such by the owner, the contractor can not afterwards, at his own instance, and against the will of the owner, perform some part that was called for in the contract, but which had been omitted in the construction, and thereby extend the period for filing his lien. And it is also a correct interpretation of the law that where the building is substantially completed, and so treated by all the parties, and delivered as such by the contractor to the owner, with only a few trifling particulars remaining to be done, and as to those the owner accepts the promise of the contractor to do them afterwards, the promise to do being accepted in lieu of the actual deed, the time for filing the lien begins to run from the date of such delivery of the building to the owner. On the other hand, it is equally clear that the limitation does not begin to run until the last item called for by the contract is furnished, or the last work under it is done. Under the evidence in this case the air gauges constituted no unimportant part of the apparatus; they were essential to the operation of the system of fire extinguishers; and while, because there was an air gauge in the engine room, the system was in condition to be, and was actually, put into operation, yet that air gauge was not what was called for by the contract, and was found on test to be insufficient to do the work. Then a demand was made on the plaintiff's superintendent—not as a matter of favor, but because the contract required it—to put air gauges on the four tanks at the top of the building, and it was done. The board of underwriters approved the work July 23d, and upon that approval the plaintiff put the machine into operation, and supposed it was finished. But there

was no approval or acceptance by the elevator company, and nothing done by them to preclude them from demanding further work of construction called for in the contract, unless the mere fact of using the machine can be so construed.

The court then took up the contention that, in any case, the last work done under the contract was on November 7, and that what was done after that date was in the nature of repairs. There was evidence tending to show that the parties to the suit had conferred and had agreed on November 12 as the day when the four months' limitation should begin.

On these points the court said:

We attach little importance to that incident. As counsel for appellant say, if the time for filing the lien expired before March 12th, any agreement, if there was any, made between the parties on November 12th to extend it, would have no effect. A mechanic's lien is a creature of statute, and not of contract. The lien in this case depends for its validity, so far as the point now under discussion is concerned, on the fact that the plaintiff's work under the contract was not completed until November 12th. Whilst the combination gauges were put in on the 7th, yet as soon as put to test they were found to have defects, and were not rendered efficient until the 12th. Correcting defects thus discovered was not in the nature of making repairs, but of rendering the original perfect.

PAYMENT OF WAGES—REDEMPTION OF STORE ORDERS IN MONEY—CONSTITUTIONALITY OF STATUTE—INTERFERENCE WITH RIGHT OF CONTRACT—*Knoxville Iron Co. v. Harbison, United States Supreme Court, 22 Supreme Court Reporter, page 1.*—Complaint was brought by Samuel Harbison in the chancery court of Knox County, Tenn., to secure a decree for the redemption by the Knoxville Iron Company of certain orders for coal, under the provisions of chapter 11, acts of 1899. This law requires all companies using store orders or other evidences of indebtedness to pay laborers and employees, to redeem the same at face value in good and lawful money of the United States in the hands of their employees, laborers, or a bona fide holder, on demand not less than thirty days from the issuance thereof.

Orders for coal had been drawn by certain employees, and after acceptance by the company had been purchased by the complainant, Harbison, who was a licensed dealer in securities. The company denied that the complainant was a bona fide holder of the orders in question. The decree was granted, however, and was afterwards affirmed by the court of chancery appeals of Tennessee. Appeal was then taken to the supreme court of the State, which sustained the courts below, but allowed a writ of error by which it was brought to the Supreme Court of the United States on the question of the validity, under the Federal Constitution, of the law above referred to.

In delivering the opinion of the court, Mr. Justice Shiras used in part the following language:

The views of the supreme court of Tennessee, sustaining the validity of the enactment in question, sufficiently appear in the following extracts from its opinion, a copy of which is found in the record:

"Confessedly, the enactment now called in question is in all respects a valid statute and free from objection as such, except that it is challenged as an arbitrary interference with the right of contract, on account of which it is said that it is unconstitutional, and not the 'law of the land' or 'due process of law.'"

"The act does, undoubtedly, abridge or qualify the right of contract in that it requires that certain obligations payable in the first instance in merchandise shall in certain contingencies be paid in money; yet it is as certainly general in its terms, embracing equally every employer and employee who is or may be in like situation and circumstances, and it is enforceable in the usual modes established in the administration of government with respect to kindred matters.

"Under the act the present defendant may issue weekly orders for coal, as formerly, and may pay them in that commodity when desired by the holder, but instead of being able, as formerly, to compel the holder to accept payment of such orders in coal, the holder may, under the act, compel defendant to pay them in money. In this way and to this extent the defendant's right of contract is affected.

"Its tendency, though slight it may be, is to place the employer and the employee upon equal ground in the matter of wages, and, so far as calculated to accomplish that end, it deserves commendation. Being general in its operation and enforceable by ordinary suit, and being unimpeached and unimpeachable upon other constitutional grounds, the act is entitled to full recognition as the 'law of the land' and 'due process of law' as to the matters embraced. * * *

"The act before us is neither prohibitory nor penal; not special, but general; tending toward equality between employer and employee in the matter of wages; intended and well calculated to promote peace and good order, and to prevent strife, violence, and bloodshed. Such being the character, purpose, and tendency of the act, we have no hesitation in holding that it is valid, both as general legislation, without reference to the State's reserved police power, and also as a wholesome regulation adopted in the proper exercise of that power."

The supreme court of Tennessee justified its conclusions by so full and satisfactory a reference to the decisions of this court as to render it unnecessary for us to travel over the same ground.

The judgment of the supreme court of Tennessee is affirmed.

PAYMENT OF WAGES—REDEMPTION OF STORE ORDERS IN MONEY—CONSTITUTIONALITY OF STATUTE—STATE CONTROL OF FOREIGN CORPORATIONS—*Dayton Coal and Iron Co. v. Barton, United States Supreme Court, 22 Supreme Court Reporter, page 5.*—This case arose under chapter 11, acts of 1899, of the laws of the State of Tennessee, and is similar in many points to the case reported just above, under the same statute. The Dayton Coal and Iron Company (Limited) is a corporation organized under the laws of Great Britain, doing business

in the State of Tennessee. T. A. Barton brought suit in the circuit court of Rhea County as a bona fide holder of certain store orders, issued by said company, to recover the value of the same, the company denying the validity of the act above mentioned. The plaintiff, Barton, obtained judgment in the circuit court, which judgment was affirmed by the supreme court of the State.

On writ of error allowed by the chief justice of the State supreme court the case came to the Supreme Court of the United States, the opinion being delivered by Mr. Justice Shiras.

Having referred to the case of Knoxville Iron Co. *v.* Harbison, reported above, he continued:

The only difference in the cases is that in the former the plaintiff in error was a domestic corporation of the State of Tennessee, while in the present the plaintiff in error is a foreign corporation. If that fact can be considered as a ground for a different conclusion, it would not help the present plaintiff in error, whose right, as a foreign corporation, to carry on business in the State of Tennessee, might be deemed subject to the condition of obeying the regulations prescribed in the legislation of the State. As was said in Orient Ins. Co. *v.* Daggs, 172 U. S. 557, 43 L. Ed. 552, 19 Sup. Ct. Rep. 281, that "which a State may do with corporations of its own creation it may do with foreign corporations admitted into the State. The power of a State to impose conditions upon foreign corporations is certainly as extensive as the power over domestic corporations."

The judgment of the supreme court of Tennessee is affirmed.

Railroad Companies—Payment of Wages to Discharged Employee—Statutory Penalty—*Louisiana and Northwestern Railway Co. v. Phelps, Supreme Court of Arkansas, 65 Southwestern Reporter, page 709.*—In this case M. V. Phelps brought an action under the laws of Arkansas to recover on a claim for wages and penalty. He was an engineer on the above-named road, about half his run being in Arkansas and the remainder in Louisiana. He was employed at Shreveport and discharged at Gibbsland, both places being in the latter State. The circuit court of Columbia County, Ark., awarded both wages and penalty, and the company appealed.

Judge Riddick announced the reversal of this judgment, using in part the following language:

Although he [Phelps] performed a portion of the services for which he sues in this State, still we think it is very clear that the right of action accruing to him by virtue of his contract and his discharge from the service of the company depends upon the laws of Louisiana, and not upon those of Arkansas. Under these circumstances, he has no right to claim a penalty under the statutes of this State providing that, when a corporation engaged in operating a railroad shall discharge any employee, the unpaid wages of such employee shall become due, and, if the same be not paid on the day of his discharge, "then as a penalty for such nonpayment the wages of such servant or employee shall continue at the same rate until paid." (Sand. & H. Dig., Sec. 6243.)

That statute certainly does not protect an employee who was neither employed nor discharged in this State, and whose only claim for the penalty imposed is that he performed a portion of the services sued for in this State.

Judgment must be reversed, and a new trial granted.

REMOVAL OF CAUSES—JOINDER OF NEGLIGENT SERVANT WITH MASTER—*Winston's Administrator v. Illinois Central Railroad Co. et al., Court of Appeals of Kentucky, 65 Southwestern Reporter, page 13.*—Suit was brought in the circuit court of McCracken County by the administrator of Alex. Winston to recover damages from the above-named railway company and from two of its employees for the death of said Winston. It was alleged that Winston's death had been occasioned by an engineer and fireman in the employ of the company negligently operating a train, running it at an unusually high rate of speed in the city of Paducah, and by reason of such negligence driving the train of cars against him.

Chapter 1, section 6, Statutes of Kentucky, provides that, when the death of a person shall result from an injury inflicted by negligence or wrongful act, "damages may be recovered for such death from the person or persons, company or companies, corporation or corporations, their agents or servants, causing the same." Sheppard, engineer, and White, fireman, were residents of McCracken County. The railroad, being a nonresident corporation, petitioned to have the cause removed to the Federal court, which the court allowed, from which judgment the plaintiff appealed.

Chief Justice Paynter delivered the opinion of the court, reversing the court below:

It was averred in the petition for removal that the plaintiff made Sheppard and White defendants for the purpose of preventing a removal of the case to the Federal court. It is immaterial what may have been the purpose of the plaintiff in making them defendants with the railroad company, if the petition states a joint cause of action against them. If the cause of action is joint, simply because the plaintiff might have elected to proceed against the defendant corporation alone he does not lose his right to prosecute his action in the State court. Under section 6, Ky. St., the plaintiff has a right to proceed severally or jointly against those who are liable for the injury inflicted resulting in death. The court below erred in allowing the petition to be filed and in accepting the bond, as the appellee railroad company was not entitled to have the case removed.

SEAMEN—SETTLEMENT—RELEASE—*Pettersson et al. v. Empire Transportation Co., United States Circuit Court of Appeals, Ninth Circuit, 111 Federal Reporter, page 931.*—Pettersson and others undertook to establish a claim for wages due by the above-named company, and from an adverse decision in the district court of the United States for

the northern district of California they appealed. These men had signed for service on the *Pennsylvania*, a vessel employed as a Government transport, for a voyage to Manila and such other ports as the master might direct, and return to the Pacific Coast for discharge, the voyage not to exceed six months. At the expiration of the six months the vessel was at Manila, and the men demanded their payment and discharge. Under the orders of the military governor their demand was refused, and on their refusal to serve any longer they were arrested and confined by the military authorities, and subsequently returned to San Francisco by another vessel. In the meantime the *Pennsylvania* had arrived and departed on another voyage. The master had left with a shipping commissioner the amount of wages due the men for their six months' service, together with a release executed by him. On the men's arrival they demanded payment of wages to date—about three months additional. They were without money and finally accepted the amounts left for them, but not without considerable objection. They declared at the time that they would sue for the additional three months' pay, but before receiving the money left for them they were required by the commissioner to sign a mutual release, which the master of the transport had signed and left with the commissioner. The signing was not done under formal protest, and the commissioner testified that, while he told them that he would not pay them unless they signed the release, he did not look upon what they said as a protest. Sections 4549 and 4552 of the United States Revised Statutes require seamen to be discharged and paid their wages before a duly authorized shipping commissioner, in whose presence a mutual release shall be signed and attested by him, and provide that such release "shall operate as a mutual discharge and settlement of all demands for wages between the parties thereto, on account of wages, in respect of the past voyage or engagement."

Touching the validity of the release, signed by Pettersson and his companions, Judge Ross, who delivered the opinion of the court, said:

It is insisted on behalf of the appellants that the release in question is invalid because the master of the *Pennsylvania* was not present with them before the shipping commissioner. The statute does not so require. In such cases as the present, both the master and the seamen are required to appear before the shipping commissioner, and, in the event of agreement, to assent to such settlement, and to manifest such assent by signing a mutual release in the presence of the commissioner, who is required to sign and attest it, and retain the same in a book to be kept by him for that purpose. There is nothing in the statute expressly or by implication requiring the master and the seamen to appear before the shipping commissioner at the same time. No good reason is perceived why a proposition of settlement may not be left with the commissioner by the party making it, to be accepted or rejected by the other party when he appears before that officer. We agree with the court below that the execution of the release is conclusive against the appellants.

WEIGHING COAL BEFORE SCREENING—CONSTITUTIONALITY OF STATUTE—*Woodson v. State, Supreme Court of Arkansas, 65 Southwestern Reporter, page 465.*—In the circuit court of Sebastian County, C. C. Woodson, agent and manager of the Central Coal and Coke Company, was indicted for failing to weigh coal before it was screened, and to pay for the mining of the same according to the weight so ascertained. The statute under which indictment was found makes it "the duty of any corporation, company, or person engaged in the business of mining and selling coal by weight or measure, and employing twenty or more persons, to procure and constantly keep on hand at the proper place the necessary scales and measures, and whatever else may be necessary to correctly weigh and measure the coal mined by such corporation, company, or person." The second section provides that "all coal mined and paid for by weight shall be weighed before it is screened, and shall be paid for according to the weight so ascertained, at such price per ton or bushel as may be agreed on by such owner or operator and the miners who mined the same."

From a judgment assessing a fine, Woodson appealed on the ground of the unconstitutionality of the statute. The supreme court affirmed the judgment of the court below, Chief Justice Bunn dissenting. Justice Riddick, in delivering the opinion of the majority of the court, used in part the following language:

It is said by counsel for appellant that this [the law cited above] is class legislation; that it is an arbitrary and unreasonable attempt on the part of the legislature to divide the operators of coal mines into two classes; that it permits such an operator employing less than twenty men to pay for digging his coal according to the weight of screened coal produced, while the operator employing twenty men must weigh his coal before screening it, and pay according to the weight thus ascertained. But we do not so understand the statute. The first section, it is true, requires only those operators of coal mines that employ twenty or more persons to keep on hand certain weights and measures; but the second section, for a violation of which the defendant is being prosecuted, applies, it seems to us, to all operators of coal mines. It includes the small as well as the large operator, though by the first section the operator employing less than twenty men is not required to procure and keep on hand the weights and measures mentioned. He can, if convenient, use the scales or measures belonging to others; but if there are none such convenient, he must necessarily keep them, or he can not pay for his coal by weight. As to the second section (the one involved here), there is no distinction made. All operators are by it treated alike, and required to weigh before screening all coal mined and paid for by weight. It therefore seems to us that the contention that this statute is an example of arbitrary and unreasonable class legislation can not be sustained.

It is next said that the act violates the constitution of the State and of the United States, "by restricting the right to contract, by taking property without due process of law, and by denying to certain operators and workers in coal mines the right of civil liberty and

the pursuit of happiness." If we concede the contention of counsel that "the right to contract in a lawful private business on terms satisfactory to the parties is a part of the natural liberty of the citizen, which the legislature can not take away," it does not follow that a corporation is equally exempt from legislative control in that respect. The citizen does not derive his power to contract from the legislature. The corporation does, and it possesses only such powers as may be conferred upon it by the legislative will, and these, under our constitution, are liable to be altered, revoked, or annulled by the power that granted them. The only limitation on this power of the legislature contained in our constitution is that the alteration, revocation, or annulment of the corporate powers must be made "in such a manner that no injustice shall be done to the corporators." * * * Whether injustice has been done the incorporators depends upon the facts of each case in which an alteration or revocation of corporate powers has been attempted. We do not see that the statute under consideration here is open to any such objection. It was made to take effect ninety days after its passage, and was prospective in its operation. It did not interfere with vested rights or existing contracts, or deprive such corporations of any property possessed by them. Being satisfied that this control of these corporations engaged in the business of mining coal in this State is authorized by the power reserved in the constitution to "alter, revoke or annul their charters," we must hold this statute to be valid.

DECISIONS UNDER COMMON LAW.

CONSPIRACY—ILLEGAL COMBINATIONS—RULES OF ASSOCIATION—DAMAGES—*Gatzow v. Buening et al., Supreme Court of Wisconsin, 81 Northwestern Reporter, page 1003.*—In this case John Gatzow brought suit in the superior court of Milwaukee County to recover damages for injuries caused by an alleged unlawful conspiracy and acts done pursuant thereto. One of the defendants, Buening, was secretary of an association known as the "Liverymen's Association of Milwaukee," while the other, Schubert, was a member of the same. During the trial it appeared by the complaint and by evidence that Gatzow had employed and paid Schubert for the services of a hearse and carriage for use at the funeral of the former's child. The vehicles came as agreed and were in waiting until near the time they would be needed for the journey to the cemetery, when the defendants, pursuant to an agreement between themselves, caused the drivers of the hearse and carriage to take the vehicles away. It was claimed that this conduct was the result of a malicious design to humiliate and injure the plaintiff, and for his humiliation and distress, as well as for the loss of the amount paid for the vehicles, he asked damages. The undertaker in charge was one Nieman, a liveryman and undertaker not a member of the liverymen's association, and it was a violation of the rules of this association to allow carriages owned by its members to be hired under such circumstances. It appeared that Schubert did not

know that the hearse and carriage were to be used by Nieman, but he had given instructions that they should be brought back to the barn if a nonunion man was in charge. Buening learned of the circumstances of the hiring and proceeded to the home of Gatzow and created disturbance and confusion, declaring his intention to "break up this funeral." It was at his immediate instance that the vehicles went away, though his conduct was fully ratified by Schubert, the owner of the vehicles.

Among the instructions which the defendants' counsel asked the court to give the jury were the following:

9. If Schubert, in depriving plaintiff of the use of the hearse and carriage, had no other motive than to protect himself from incurring a penalty for violating the rules of the liverymen's association, he can not be made to pay damages to plaintiff by way of punishment even if his conduct towards plaintiff were illegal.

10. If Buening acted solely in performance of his duty as secretary of the liverymen's association, he is not liable to plaintiff.

These were refused, and the result of the trial was a verdict for the plaintiff. On exceptions taken and a refusal to grant a new trial, the case came before the supreme court. Judgment was reversed and the case remanded for a new trial because of errors in instructions which need not be noted here. The position of the trial court as to the illegality of the combination and the effect of association rules was sustained, as appears from the following citations from the opinion of the court, delivered by Judge Marshall:

It is urged that the cause of action stated in the complaint is for breach of contract, hence that instructions to the jury, permitting an assessment of damages as in a tort action, were erroneous. The trial court rightly decided that the purpose of the action, as stated in the complaint, was to recover compensation for damages suffered through tortious conduct of the defendants. The complaint sets forth a conspiracy to commit a wrong and acts pursuant thereto, to the special injury of the plaintiff. There is no room for serious controversy on that point.

Several errors are assigned on the theory that the combination of liverymen, known as the "Liverymen's Association of Milwaukee," to limit their services to persons patronizing them exclusively, and to monopolize the livery business in Milwaukee, including such service for the burial of the dead, and to carry prices to and maintain them at such a level as the combination might see fit to adopt, and acts done in pursuit of the purposes of such combination to the prejudice of, and regardless of their effect upon, plaintiff, were not unlawful. The trial court decided to the contrary.

All combinations in restraint of trade are contrary to public policy and illegal, unless they are for the reasonable protection, by reasonable and lawful means, of persons dealing legally with some subject-matter of contract. A combination that will resort to such means as the ruthless breaking in upon the solemnities of a funeral ceremony, or that aims to entirely monopolize such an essential to the burial of the dead according to the customs of the country as is usually furnished in cities by liverymen, and to stifle competition and hamper

individual, independent industry in regard to such business as to paralyze individual effort and compel every person, in order to obtain proper facilities for a funeral, to submit to the dictates of the combine, will not stand the test above indicated. Such was the liverymen's union under consideration, by the uncontroverted evidence. Such a combination is clearly unlawful as against public policy, and the means resorted to to effect its purposes in this case were likewise unlawful. If an unlawful combination exists, it is none the less unlawful because existing under a self-imposed constitution and governed by by-laws, and because it conducts its operations in a public or semipublic way, asserting the right, in pursuit of its purposes, to interfere with individual liberty and with the public interests. In a proceeding for damages for wrongdoing by such a combination to the special injury of an individual, the constitution and by-laws of the association, and protests of its members of innocence of bad intent, and of adherence to the obligations of the association, however innocent may be its name, to prevent incurring its penalties, will constitute no protection whatever, as regards compensatory damages, to a person specially injured by overt acts of its members in pursuit of the purposes of the conspiracy.

EMPLOYERS' LIABILITY—DUTY OF EMPLOYER—ASSUMPTION OF RISK—INSTRUCTIONS—*Smith v. Gulf, West Texas and Pacific Railway Co., Court of Civil Appeals of Texas, 65 Southwestern Reporter, page 83.*—Smith sued in the district court of Bee County to recover damages for injuries received while in the employ of the above-named company. Judgment was entered for the company, and, on exceptions to the instructions of the judge to the jury, an appeal was taken. The facts appear with sufficient fullness in the part of the court's opinion quoted herewith.

Justice Neill delivered the opinion of the court, reversing the judgment of the court below:

Without discussing the testimony, we believe the evidence reasonably tends to show (1) that appellant when he entered appellee's service had no experience in doing bridge work, and that he informed the appellee, when he was employed, of his inexperience in such work; (2) that his inexperience continued from the date of his employment to the time of his alleged injury; (3) that a chisel bar is not the proper and safe implement for use in lining rails on railroad bridges; (4) that appellee, which knew, or by the exercise of reasonable care could have known, that it was not a proper and safe instrument with which to do such work, but that a pinch bar was, furnished the appellant with such unsafe and improper instrument, and ordered him to take such improper and unsafe instrument and go upon the bridge and assist in lining the rails of the track; (5) that appellant, by reason of his inexperience, did not know that such instrument was improper and unsafe with which to do the work; (6) that in obedience to such order he took the chisel bar, went on the bridge, inserted the end of the bar between the stringer and the rail, and used it as a lever for lining the rail with the track, and the bar, by reason of its being an improper instrument with which to do the work, slipped, whereby he was thrown or caused to fall from the bridge about ten feet, to the ground, which caused him

the injuries complained of. Upon the evidence tending to show these facts, the case should have been submitted on a proper charge.

The rule that the master is not liable for injuries personally suffered by his servant through the ordinary risks incident to his employment is predicated upon the assumption that the master has performed such duties as personally rests upon him, to the servant. Among these duties devolving upon the master is the one to use ordinary care and diligence to provide for his servant's use such reasonably safe implements as may be reasonably sufficient to insure the servant safety while doing his work. And it is not enough that the implement furnished should be good under ordinary conditions, but it must be reasonably safe and suitable for the work which the servant is to perform. If the master knows, or would have known if he had used ordinary care to ascertain the fact, that the tools which he provides for the use of his servant are unsafe, and his servant, without contributory fault, suffers injury thereby, the master is liable therefor. (Shear. & R. Neg. sec. 194; Geloneck *v.* Pump Co., Mass., 43 N. E. 85; Cooley, Torts, 2d. Ed., 657.) The servant has a right to assume, in the absence of knowledge to the contrary, that when his master furnishes him an implement, and directs him to use it in doing a specific piece of work, such implement is reasonably safe, suitable, and adapted to the labor directed to be performed (Railway Co. *v.* Hannig, 91 Tex. 347, 43 S. W. 508); and if in using such implement he is ignorant of its unfitness or inadaptability to the work, and he is injured, while using the implement with reasonable care, by reason of its being unsafe and not adapted to do the work for which it was furnished him, the master is responsible for the consequences of such injury.

EMPLOYERS' LIABILITY—DUTY OF EMPLOYER—CONTRIBUTORY NEGLIGENCE—*Miller v. Inman, Poulsen and Co., Supreme Court of Oregon, 66 Pacific Reporter, page 713.*—Action was brought in the circuit court of Multnomah County by Marie Miller as administratrix of Frederick J. Miller, to recover damages for his death. Miller, who lost his life from an injury received while in the employ of the defendant company, was required among other duties to remove sawdust and trimmings from a space between a saw in a mill and a wall 4 or 5 feet distant. Over this space revolved a shaft 2½ inches in diameter, at the rate of 500 revolutions per minute. On this shaft, less than 4 feet from the saw, was a flange coupling 9 inches in diameter, held together by bolts and nuts. These bolts ran parallel with the shaft and one of them projected about 1½ inches beyond the nut. Miller's work frequently obliged him to stoop or reach under this shaft and coupling, and while so engaged he was caught and whirled about the shaft, receiving such injuries that he died in a few minutes. Damages were awarded and the defendant appealed.

Chief Justice Bean announced the opinion of the supreme court, affirming the judgment of the court below, and from his remarks the following is quoted:

It needs no argument or authority to show that the defendant was negligent in leaving the bolt in the condition indicated by the evidence.

It is contended, however, that it could not reasonably have been anticipated that anyone would be injured thereby, and that the increased risk occasioned by the projecting bolt was open and visible, and within the knowledge of the servant. But we do not think either of these positions sound. The defendant required its employees to work near, and often under, the revolving shaft and coupling, and must be held to have known that they were liable to accidentally come in contact therewith. It was therefore bound to exercise reasonable care to see that the danger naturally incident to the service was not increased. That the work might have been done without coming in contact with the bolt, or that no one had ever before been injured by it, although it had been in the same condition for several years, is no justification for defendant's negligence, and no defense to this action. The question is not what might or could have been done, but whether the danger to the servant was increased by the projecting bolt. In regard to the other point, there is no evidence that Miller knew of the condition of the bolt, nor was it such an open risk as to charge him with knowledge thereof. It was not visible when the shaft was in motion, owing to the rapidity of its revolutions; and there is no evidence that Miller ever saw the shaft at rest, and, if he did, it was not his duty to look for defects of that kind. He had a right to assume that the machinery was in a reasonably safe condition, and that the danger or hazard incident to his employment had not been increased by the negligent act of the defendant.

It is argued that there is no evidence that the projecting bolt was the proximate cause of Miller's death. True, no one saw him come in contact with it, but he was seen a moment later, being whirled around the shaft; and his clothes, which had been torn from his body, were found wrapped around the coupling. This was sufficient to authorize the jury to find that he was caught by the projecting bolt.

EMPLOYERS' LIABILITY—DUTY OF EMPLOYER—NEGLIGENCE—*Welsh v. Cornell, Court of Appeals of New York, 61 Northeastern Reporter, page 891.*—James Welsh sued John M. Cornell for damages on account of an injury received while in his employ. The trial court awarded no damages, but on appeal to the appellate division of the supreme court a new trial was ordered. From this order Cornell appealed to the court of appeals and obtained a reversal of the last order with affirmation of the decision of the trial court. The facts appear in the portion of the opinion of the court quoted below:

This was an action to recover for personal injuries sustained by the plaintiff, and alleged to have been caused by the negligence of the defendant. The plaintiff, his servant, was injured while in the defendant's employ by the breaking and falling of a portion of a clamp to which was attached the guy rope of a derrick owned by the defendant and in use upon his premises when the accident occurred. The plaintiff was at work under this guy rope, and immediately in front of a post to which it was attached by the clamp which gave way. As negligence is not to be presumed, but must be proved to entitle the plaintiff to recover, it was necessary for him to show that the accident was

the result of the defendant's negligence. It was the duty of the defendant to exercise reasonable and ordinary care to provide for the safety of his servants, and to furnish appliances that were reasonably safe and suitable for the purpose for which they were employed. Unless there is proof in this case showing the absence of ordinary care upon the part of the master in furnishing or maintaining the appliance which was broken, the plaintiff can not recover. Practically, the only facts established by any tangible or substantial proof were the plaintiff's injury, and that it was caused by the falling of a piece of the broken clamp. What occasioned the break was not shown, although there was some speculation or conjecture as to the cause. There was no proper proof, direct or inferential, that the clamp was made of defective iron, or that it was defectively made, or that it was not properly maintained, except such as might be inferred from the fact that it gave way. The only proof which even tended to show any defect in the clamp was that one witness testified that he glanced at the broken piece, that it looked like freshly broken iron, and that on the corner there was a little bit of rust; but he finally refused to swear it was rust, and testified that it might have been paint instead. The main portion of the plaintiff's evidence was that of experts, by whom he, at most, proved that the clamp would not have broken unless in some way defective, and that the defect which occasioned the break might have arisen from one of several causes, no one of which was proven to have existed. Nor was it proved that the defendant knew, or with reasonable diligence might have ascertained, the supposed defect. We think the trial judge was right, and that the reversal by the appellate division was not justified.

EMPLOYERS' LIABILITY—DUTY OF EMPLOYER—NEGLIGENCE—*Virginia Iron, Coal and Coke Co. v. Hamilton, Supreme Court of Tennessee, 65 Southwestern Reporter, page 401.*—Marcus Hamilton obtained judgment in the Washington County circuit court for an injury received by him while in the employ of the above-named company. Evidence showed that he was employed as a section hand about a furnace operated by the company, engaged in keeping the railway tracks in repair. On the day of the accident occasioning his injury, however, Hamilton had been instructed to shovel ore from the mouth of an ore crusher and was placed at work under an elevated railway track about 16 feet above him, and while in that position a piece of ore weighing five or six pounds fell from a car which was on this track and struck him on the head. The ore in question had in some way become lodged on the brake beam at the end of the car and was jarred off when the car was being coupled. Proof tended to show that such an accident had never happened before. The defendant company demurred to the evidence, holding that nothing had been adduced to warrant a verdict. The judge overruled the demurrer, and on exception to this ruling the case came before the supreme court.

Judge McAlister, in delivering the opinion of the court, spoke in part as follows:

It is insisted in this case that the loading and unloading of the car in question was the duty of the fellow-servants of the plaintiff; hence, if the car was negligently unloaded, leaving a piece of ore on the brake-beam, that negligence was the act of a fellow-servant. It is insisted, however, on behalf of plaintiff, that it is the duty of the master or employer to keep his premises used in the prosecution of his business in a reasonably safe condition, and, if he fails to do so, he is liable to the servant for all injuries resulting from such defects. (Iron Co. *v.* Pace, 101 Tenn. 484, 48 S. W., 232.) It is claimed that it was the duty of the company to have protected its employees working at the crusher beneath the elevated track against falling stone or ore by the erection of a suitable platform or other barrier. The important inquiry, then, in this case is whether the injury to plaintiff was the result of defective premises, or was it caused by the negligent use of the company's appliances by the fellow-servants of the plaintiff? While the defendant company is not liable for the negligence of the fellow-servant, yet, if the company has itself been guilty of any negligence concurring in producing the injury, there is liability. The question whether or not the company had provided a reasonably safe place for the plaintiff to work was submitted to the court by the demurrer to the evidence, and his action in overruling the demurrer was a resolution of that contention against the company. In looking to the evidence on this subject, we can not say there was no evidence which would have warranted a jury in finding that these premises were not reasonably safe.

The judgment must therefore be affirmed.

EMPLOYERS' LIABILITY — INCOMPETENT FELLOW-SERVANTS — ASSUMPTION OF RISK— *Gray v. Red Lake Falls Lumber Co., Supreme Court of Minnesota, 88 Northwestern Reporter, page 24.*—Gray was awarded damages in the district court of Polk County for injuries received while in the employment of the lumber company, caused, as was claimed, by the incompetence of a fellow-servant. Gray's work was that of piling the logs as they came from the woods, his place of duty being on the top of the pile where he adjusted the logs as they were rolled up by the aid of a team of horses. His helper, Cook, was inexperienced and Gray had complained of him and was promised a competent man if he would continue in the lumber company's service. He returned to duty and two days afterward was injured because of Cook's improper and careless adjustment of the chain on a log that was being rolled upon the pile.

On an appeal the case came before the supreme court of the State and the judgment of the court below was affirmed. The following syllabus by the court states the principles of law on which its findings rest.

1. A master is required by law to provide his servants competent fellow-servants, with whom they are associated in the performance of the work of their employment. If a servant complains to and notifies the master that a fellow-servant with whom he is so associated is

incompetent and unfit for the work in which they are jointly engaged, and the master promises to replace the incompetent with a competent workman, in consequence of which he is induced to remain in the master's service, the complaining servant may continue in such service for a reasonable time, to enable the master to fulfill his agreement, during which time he does not assume the risks incident to or arising from such incompetency, unless they are so obvious and imminent that a person of ordinary care and prudence would not incur them; but it does not necessarily follow that because he does not, as a matter of law, assume such risks, he may not be chargeable with contributory negligence with respect to his own conduct.

2. In actions, founded in this principle of the law, to recover damages for injury to the complaining servant, the question whether the risks are so obvious and imminent that a person of ordinary care and prudence would not incur them by continuing in the work associated with the incompetent servant, and whether the complaining servant is chargeable with contributory negligence, are ordinarily questions of fact for a jury to determine.

3. Evidence examined, and *held* to present issues for the determination of a jury with respect to both those questions, and that it sustains their verdict.

EMPLOYERS' LIABILITY — NEGLIGENCE — EVIDENCE — *Consolidated Kansas City Smelting and Refining Co. v. Allen, Supreme Court of Kansas, 67 Pacific Reporter, page 436.*—In this case C. S. Allen sued in the district court of Wyandotte County to recover damages on account of an injury received while in the employ of the above-named company. The injury was caused by a pig of lead falling from a pile and striking his foot. The only evidence Allen offered as to negligence on the part of the company was the fact that this pig fell; as to the remainder of the stack, he admitted that there was nothing to indicate that it was not safe or was improperly built. It was shown by other witnesses that there were various causes other than improper piling that sometimes made the pigs fall from the stack. The company demurred to the evidence offered by Allen, which demurrer was overruled, and the trial resulted in a judgment for the plaintiff. The company appealed and obtained a reversal of the judgment, the conclusion of the court being given in the following official syllabus:

In an action to recover damages for personal injuries sustained by the falling of a bar of lead, where the only negligence relied upon is that the stack out of which the bar fell was carelessly or negligently built, a demurrer to the evidence should be sustained where there is no evidence tending to show that the stack was carelessly or negligently built, or that it fell because improperly built.

EMPLOYERS' LIABILITY — NEGLIGENCE — FELLOW-SERVANTS — NOTICE— *Weeks v. Scharer, United States Circuit Court of Appeals, Eighth Circuit, 111 Federal Reporter, page 330.*—Charles F. Scharer and Albert Murcrey were employees of H. T. Weeks, working together for him in his mine in Colorado, when Murcrey carelessly dropped

a jackscrew down the shaft, breaking Scharer's leg. Scharer sued Weeks, claiming that the injury was caused by the defendant's failure to adopt reasonable rules for the operation of the mine, and by his failure to employ and retain competent workmen. During the trial it was shown that Weeks was owner of the mine; that his superintendent was authorized to hire and discharge employees; that among these employees were two shift bosses who supervised and directed the work of the men under the orders of the superintendent; that the superintendent was generally at the mine overseeing the work, and that Scharer and Murcrey had worked together for about six weeks before the accident.

Murcrey was considered a very careless workman and had been the cause of an injury to a fellow-workman, Medaris, some time before the accident complained of. Medaris had asked the shift boss to be put where he would not be compelled to be with Murcrey, on the ground of the latter's carelessness; but no change had been made. No evidence was presented showing any authority on the part of the shift boss to employ or discharge workmen. In the trial court the judge had instructed the jury that notice to the shift boss of Murcrey's incompetence was notice to the defendant, and a verdict was rendered in Scharer's favor.

The defendant, Weeks, appealed on the ground that it was error to charge the jury that proper notice had been given. The opinion of the circuit court of appeals was delivered by Judge Sanborn, who, after referring to a number of cases cited by Scharer's counsel, said:

There is nothing in any of these opinions to the effect that notice of the incompetence or of the habitual negligence of a servant to one charged with the duty of directing and supervising him and his work, but who is without authority to hire, discharge, or suspend such workman, is notice to the master, or to the effect that such a superior or supervising employee is discharging the positive duty of the master in this regard.

The duties of co-workmen engaged in a common undertaking are necessarily diverse, and their grades of service different. On some is imposed the duty of superintending the work, and directing their associates when, where, and how to do it, while it falls to the lot of others to obey the directions of their superiors and to perform the labor. But this difference of duties and of grades of service neither abrogates nor affects the relation of fellow-servants. In the case in hand the shift boss and the members of the shift to which the plaintiff belonged, who knew of the acts of negligence of Murcrey, were fellow-servants of the plaintiff. If those acts were of such a character that it was their duty to report them to the superintendent, the risk of their negligence in failing to report was necessarily assumed by the plaintiff. Notice of these acts to the shift boss was notice to a fellow-servant, and not to the master, and the charge of the court to the contrary was fatal to this verdict.

The judgment below is reversed, and the case is remanded to the court below for another trial.

EMPLOYERS' LIABILITY — RAILROAD COMPANIES — CONTRIBUTORY NEGLIGENCE—*Brown's Administratrix v. Louisville, Henderson and St. Louis Railway Co., Court of Appeals of Kentucky, 65 Southwestern Reporter, page 588.*—Richard Brown, a switchman in the employment of the above-named company, was killed while coupling two caboose cars. There were boards across the ends of these cars, with edge to the car and projecting outward the width of the boards. Testimony showed that these boards came so close together as to endanger the safety of the switchman.

The administratrix sued in the circuit court of Jefferson County to recover damages for the death of Brown, and judgment was for the defendant company. On appeal to the State court of appeals the judgment was affirmed, Judge White delivering the opinion of the court.

He said in part:

Appellant's intestate undertook to make the coupling on a curve in the track and from the inside of the curve, so that the boards came closer together than if on a straight line. The proof showed that, when the signal was given to back the engine and cars, Brown was on the outside of the curve, and as the cars began to move back he crossed the track between the two cars he intended to couple, and stood on the inside of the curve, by the side of the standing car, and, when the cars came together, stepped in to make the coupling, and was caught and killed. Decedent had been in the employ of the appellee for some time, and was an experienced switchman. It was shown that if decedent had remained on the outside of the curve, he could have made the coupling with safety, but that he went to the inside of the curve in order to better signal the engineer from that side, and control the movements of the train. It was shown that decedent's attention had been called to the fact that the boards on the cars came closer together on the inside than on the outside of the curve, and was instructed to make the coupling from the outside of the curve; and appellant's witnesses all say that they knew that it was extremely dangerous to make the coupling from the inside of the curve. The proof shows that decedent was guilty of such contributory negligence as precludes a recovery.

EMPLOYERS' LIABILITY—RAILROAD COMPANIES—CONTRIBUTORY NEGLIGENCE—OBEDIENCE TO ORDER—*Galveston, Harrisburg and San Antonio Railway Co. v. Sanchez, Court of Civil Appeals of Texas, 65 Southwestern Reporter, page 893.*—In this case the railroad company appealed from a judgment in favor of Alejandro Sanchez rendered by the district court of Bexar County. Sanchez was a section hand in the employment of the above-named company, engaged, at the time of the injury for which he sued, in loading rails upon flat cars. The crew of which he was a member was riding on a flat car to the pile of rails to be loaded, and on approaching it either the foreman or the roadmaster ordered the crew to get off. The train was in

motion and Sanchez made no attempt to get off. A second peremptory command was given and the crew all jumped, alighting safely with the exception of Sanchez, who fell and was permanently injured by the shattering of the bones of his left knee. It was in evidence that the train was moving from five to seven miles per hour when the orders were given. The plaintiff had seen the foreman jump from a car moving even more rapidly than was the one from which he jumped, and saw the men with him jump in safety at the time of his accident; he himself had never tried to jump from a train in motion, and had never before been ordered to do so.

On the question of contributory negligence, Chief Justice James, speaking for the court, said:

Certainly, where it was possible with proper care to make the descent in safety, as appears here, and where plaintiff had often seen the foreman jump from cars going faster than this one, and never having had experience himself in jumping from moving trains, a reasonably prudent man, in his circumstances, may have been justified in presuming that he might proceed with safety to obey the command. The question of whether or not such was the case, and whether or not in so doing plaintiff exercised that degree of care which he should have exercised under the circumstances, were questions for the jury.

Counsel for the railroad company argued that plaintiff and defendant had equal opportunity to observe and know the danger, and therefore the defendant company ought not to be charged with liability, and that it was error for the court below to submit any such issue as that of the plaintiff's inexperience or ignorance of danger. On this point the court quoted from the case of Steel Co. *v.* Schymanowski (Ill.), 44 N. E., 879, as follows:

A master is liable to a servant when he orders the latter to perform a dangerous work, unless the danger is so imminent that no man of ordinary prudence would incur it. Even if the servant has some knowledge of attendant danger, his right of recovery will not be defeated if by obeying the order he acts with the degree of prudence which an ordinarily prudent man would exercise under the circumstances. When the master orders the servant to perform his work, the latter has a right to assume that the former, with his superior knowledge of the facts, would not expose him to unnecessary perils. The servant has a right to rest upon the assurance that there is no danger which is implied by such an order.

Continuing, the court said:

We regard the real issue here as not one of equal opportunity, nor one of experienced employee. Where the employee acts suddenly, as may be said in this case, upon an imperative order enjoining instant obedience, if the danger of injury from obeying the order is not certain, and can be incurred without injury by exercising care, the issues of negligence, contributory negligence, assumed risk, etc., are for the jury and not for the court to determine. And in such a case this is none the less so if the servant has experience.

Affirmed.

EMPLOYERS' LIABILITY—WORKING DURING DINNER HOUR—INJURY RECEIVED WHILE OUTSIDE LINE OF DUTY—INSTRUCTIONS TO SUBORDINATE TO OBEY OTHERS—*Mitchell-Tranter Company v. Ehmett, Court of Appeals of Kentucky, 65 Southwestern Reporter, page 835.*—This case came before the court of appeals on appeal from the circuit court of Kenton County, which had rendered a judgment for damages against the above-named company. The facts appear in the portion of the opinion of the court, as delivered by Justice White, quoted herewith:

Appellee [Ehmett] was employed to assist a bricklayer named Weatherwax. His duties were to help the bricklayer to do anything the bricklayer required. He helped build furnaces, repair furnaces, and repair or adjust the guyropes or wires that held the smokestacks. All this work required appellee to be frequently on the mill roof. On the day of the injury a damper on the stack fell through the roof, and at about half-past twelve, at the noon hour, and while Weatherwax was at home for dinner, appellee, who was eating his meal at the mill, was requested by Chas. Minish, a puddler employed by appellant, to go upon the roof and remove a crossbeam broken by the fall of the damper, and hanging in the roof so as to be dangerous. In going over the roof of the mill to remove this dangerous crossbeam, the roof gave way, and appellee fell to the floor below and was seriously injured. * * * The question of contributory negligence was, under proper instruction, submitted to the jury; and their verdict was, in effect, that there was no negligence in appellee when he went upon the roof and was injured, so that the case may be treated here as if appellee, without negligence himself, was injured when obeying the direction of the puddler to remove the dangerous beam, which direction he had been ordered by his superior, Weatherwax, to obey, and that this occurred at the noon hour, during the recess of the work for that meal. Under these circumstances, the question is whether appellee was at the time of the injury in the employ of appellant, and was within the scope of the employment for which he was engaged.

We shall first consider the time of the injury. In the case of Broderick *v.* Depot Co., 56 Mich. 261, 22 N. W. 802, 56 Am. Rep. 382, it was held: "It does not follow that, because plaintiff was given an intermission from work of an hour and a half for dinner, he ceased during that time to be servant of defendant. If during that time he had in his care or custody, any of his master's property, requiring his attention and oversight, or if called upon to perform work by the master, or by one having authority to command his service, the relation would still exist." We conclude, therefore, that, so far as the time of the injury is concerned (that it was at the noon hour), appellee was in the employ of appellant.

The material inquiry, however, is, Was the injury received while appellee was acting within the scope of his employment, or was he, as to this work he was engaged in when injured, a volunteer, to whom appellant owed no duty as to place in which to perform the service? There is no proof in the record that Weatherwax had authority to place appellee under any other employee of appellant, or that by reason of this order by Weatherwax, appellee was bound to do what was required of him by a puddler. There is an absence of power shown in Weatherwax to give the order. The order of Weatherwax, if given,

could only mean that appellee was to repair anything necessary that was in the line of his duties. By his long service at the mill, appellee must have known that there was a carpenter, whose duty it was to repair the roof and framework. Appellee knew at least that this was not his duty. Being a volunteer as to that work, appellant owed him no duty to have or keep the roof in safe condition, and a failure to do so was, as to appellee, not actionable negligence.

The judgment is reversed, and the cause remanded for a new trial.

INJUNCTION—CONSPIRACY—CONTEMPT—JURISDICTION OF THE COURT OVER PERSONS NOT PARTIES TO ORIGINAL BILL—*W. B. Conkey Company v. Russell et al., In re Bessette, United States Circuit Court for the District of Indiana, 111 Federal Reporter, page 417.*—In this case the W. B. Conkey Company, doing business in the city of Hammond, submits information against one Bessette, claiming that he has conspired with the defendants, Russell et al., to evade and violate the orders of the court as laid down in an injunction granted for the relief of the said Conkey Company, and that he has aided and abetted the parties so enjoined in the commission of acts of violence and wrong, on which grounds it is asked that Bessette and his confederates be punished as in contempt. Bessette was not a party to the original suit, having been sent to Hammond from Chicago only after the issuance of the injunction against certain strikers who were interfering with the business of the complaining company. It was established that his presence at Hammond was connected with acts of force and violence directed against the employees and those seeking employment with the company and that he was properly chargeable with knowledge of the existence of the injunction against such acts.

Judge Baker delivered the opinion of the court, and after disposing of a point raised on the original bill, he quoted from the opinion of Justice Brown in the case of In re Lennon, 166 U. S., 548, 17 Sup. Ct., 658, 41 L. Ed., 1110, as follows:

"The facts that petitioner was not a party to such suit, nor served with process of subpoena, nor had notice of the application made by the complainant for the mandatory injunction, nor was served by the officers of the court with such injunction, are immaterial, so long as it was made to appear that he had notice of the issuing of an injunction by the court. To render a person amenable to an injunction, it is neither necessary that he should have been a party to the suit in which the injunction was issued, nor that he should have been actually served with a copy of it, so long as he appears to have had actual notice."

That I understand to be the law. Nor do I understand that this application for the punishment of Mr. Bessette and the other parties against whom a rule was issued by the court to show cause why they should not be punished for the matters and things set out in the petition and information against them asks for any relief in the way of damages or otherwise in favor of the Conkey Company. It is punishment that is asked for—that they may be punished. Now, I have

said enough to indicate that I think, under the law, the court has jurisdiction to do that thing, if the proofs sustain the charges, not on the ground that Mr. Bessette and the other conspirators who are named, but are not parties to the original bill, are directly restrained, but because they have made themselves amenable to the process for contempt by combining and confederating with those who were enjoined, and by aiding and assisting them in the violation of the injunction of the court. And the court, if it should assess a punishment against Mr. Bessette, would assess it on the theory—and such would be the finding that the court would make in passing its judgment—that, with full knowledge of the scope and effect of the restraining order, he did wrongfully and unlawfully unite, combine, and confederate with the defendants named in the bill, and who were by name restrained, for the purpose of thwarting and defeating the effect of the writ of injunction issued by the court, and that he did, in pursuance of such conspiracy, aid, abet, and assist them in acts of violence in violation of the injunction. That I understand to be the scope and character of the charge, or charges, rather, that are made against Mr. Bessette, with others. And such I understand to be the law applicable to those charges.

The judgment of the court is that the defendant be fined, for the contempt charged, in the sum of $250 and the costs of prosecution, and that he stand committed to the jail of Marion County, Ind., until the fine and costs are paid, or until he is discharged by due course of law.

Railroad Companies—Breach of Contract for Medical Attention for Employees—Damages—Mental Suffering—*Galveston, Harrisburg and San Antonio Railway Co. v. Rubio, Court of Civil Appeals of Texas, 65 Southwestern Reporter, page 1126.*—This was an appeal from a judgment in favor of Ramon Rubio in the county court of El Paso County. The action of the court below was reversed on the ground that the court had admitted an allegation of damages too remote, and the case was remanded for a new trial.

The facts appear in the statement of the opinion of the court of appeals as given by Chief Justice James, quoted herewith:

Appellee [Rubio] sued alleging that in El Paso County he was employed by appellant to work as a laborer on its line of railway, agreeing to pay him $1.25 per day, and, in event of plaintiff becoming sick, to furnish him with all necessary hospital and medical attention and medicines, and to send plaintiff to a hospital for such purposes, and to defray the expense thereof the sum of 50 cents monthly was to be deducted by defendant from plaintiff's wages. The petition alleged that defendant set him to work at Schulenburg, a malarial locality, which fact was known to defendant, and unknown to plaintiff; that he began work about September 12, 1900, and about September 22 plaintiff contracted malarial fever, commonly known as "chills and fever," of a violent nature; that he repeatedly applied for the necessary medical, hospital, and other attention provided for in the contract, which was refused him, although the 50 cents therefor was deducted from his pay; that plaintiff had no money and no friends nearer than El Paso

County, Tex., and no means of providing food, shelter, or medical attention, all of which was well known to the defendant at the time it so refused; that the weather was bad; that by reason of the defendant's refusal aforesaid the malady of plaintiff was greatly aggravated, and he was left sick and helpless among strangers 700 miles from home; that having no money nor any means of procuring any money, or a ticket, he was compelled to make his way back to his home in Socorro on foot, and suffered great bodily and mental pain and anguish, and was permanently injured in his bodily constitution and health, and was totally incapacitated from labor from that time to the filing of his petition, and his capacity to labor and earn a living has been permanently impaired, all to plaintiff's damage in the sum of $950. The jury gave plaintiff a verdict for $200.

Except in respect to the matter for which the judgment is reversed, we see no error in the record. According to plaintiff's testimony and that of other witnesses, defendant violated its contract in regard to furnishing plaintiff with necessary medical and hospital assistance. For such breach of contract plaintiff would be entitled to recover to the extent of the damages he may have sustained, which might be expected as naturally resulting from such breach. The act of plaintiff in making his way back to his home in Socorro on foot was his voluntary and independent act. It had no connection with defendant's refusal, as a natural result thereof, nor was it an act to be reasonably expected therefrom. As a matter of damages, it was too remote, and was calculated to affect the verdict. Loss of time, and decreased capacity to earn a living, could not be regarded as too remote.

Appellant attacks the charge which informed the jury that they might consider (among other things) plaintiff's mental and physical suffering, if any, suffered by him by reason of, or as the immediate result of, such breach of contract; the objection being to this charge embracing mental suffering. It is the rule where there is serious physical injury occasioned by the act of another, mental suffering, if any, may also be considered as an element of damages, and, without discussing the evidence, we are of opinion that the rule has application in this case.

STRIKES—PICKETING—UNLAWFUL INTERFERENCE WITH EMPLOYER'S BUSINESS—INJUNCTION—*Otis Steel Co., Limited, v. Local Union No. 218, of Cleveland, Ohio, of Iron Molders' Union of North America et al., United States Circuit Court for the Northern District of Ohio, Eastern Division, 110 Federal Reporter, page 698.*—A bill in equity asking for the issuance of an injunction to prevent certain acts of strikers and their sympathizers was filed by the Otis Steel Company in the above-named court and after a hearing the petition of the bill was granted by the court in its decision rendered July 9, 1901, and the injunction was issued.

The report of the case contains no further statement of the facts therein than that contained in the opinion of the court, delivered by District Judge Wing, which reads as follows:

It will be unnecessary, at this time, to go over all of the recitals and allegations of the bill. It contains charges that the defendants,

Local Union No. 218 of the Iron Molders' Union of North America, and certain individuals named as defendants, who are said to be members of that union, and others whose names are not known, have attempted by various means, including the establishment and maintenance of "pickets," to interfere with the operation of the complainant's mill, and with its employment of men disapproved by the defendants, and it is also alleged that violence and riotous acts have accompanied these attempts. The answer denies that any violence has been committed by the defendants, and sets up as a defense, at considerable length, a history of what is called the "old strike," which commenced in July, 1900, and alleges that some agreement of settlement of that strike was made, and that such agreement of settlement was broken by the complainant, and that a new strike was instituted about April 1st of this year. Whatever the truth may be upon the disputed question as to whether actual violence was indulged in by the defendants, or some of them, it appears from affidavits filed by the defendants, and it is practically an agreed fact in this case, that "picketing," so called, has been employed, as a means of carrying out its purposes, by the defendant association, during all of the first strike, or what is called the "old strike," as also during the second strike, which has been in existence since April 1st; and that such picketing was suspended for some weeks, during the time when it was supposed an agreement had been arrived at between the striking molders and their employer.

Counsel for the defendants have gone into a somewhat lengthy history of the writ of injunction, with a view of impressing upon the court the great care that should be exercised by the courts in the use of the writ as a remedy. It is peculiarly appropriate, in the analysis of these strike cases, to consider the great power which the jurisdiction to issue this writ confers, and the strict boundaries which should confine its use, because the beginning of all this trouble was the attempt of the Iron Molders' Union, No. 218, without the assistance of a court, to enjoin the complainant from operating its plant. That injunction was attempted to be enforced, not only against the complainant, but against all nonunion molders; and its terms, as addressed to the complainant, were, in substance, "You must not proceed with your business and the operation of your plant unless you comply with the conditions which we have imposed;" and, as to the nonunion molders, "You shall not work for the Otis Steel Company." It would not be claimed for a moment that there has ever existed any authority in the defendant to so issue its edicts against either the complainant or the nonunion molders. The assumed right to thus dictate to others may be referred to an unfounded notion on the part of this molders' union that it and its members are the exponents of some higher law than that which may be administered by courts. It would not be urged for a moment that this molders' union, or its members, could have rightfully obtained from any court the injunction against the Otis Steel Company and the nonunion molders, which, in the course of this strike, has been attempted to be enforced. If, from the history of the writ of injunction, it can be gathered that courts should exercise great care in its use, it follows with more force that a self-constituted body of men, deriving no authority from recognized law, should not be permitted to originate edicts for the government of others, and attempt to enforce them by any means whatsoever.

Now, what are the means, in analogy to contempt proceedings, by which this self-constituted court has attempted to enforce its injunction? The one admitted thing is the establishment and maintenance of a system of picketing. Whether this picketing has been accompanied with violence or not we need not consider. It certainly was one of the means used by this defendant organization to enforce its mandate. While picketing may not be an occasion of war, it certainly is an evidence that war exists, and the term is appropriately borrowed from the nomenclature of actual warfare. This system, constantly kept up, in its nature leads to disturbance, and has a tendency to intimidate. That it is used by the defendants as a means of enforcing their unauthorized mandate, and that it accompanies the utterance of it, is an admission by the defendants that it will prove effective in enforcing such mandate. It is therefore a violation of the rights of this complainant, and of all nonunion men, or of any and all men who choose to work in disobedience to the orders of this defendant union. Behind all law there is necessarily force. The orders and judgments of courts would otherwise be futile. Behind the order made by this union is the tacit threat of enforcement by appropriate means. One of the actual means used, and admitted, has been the constant and regular attendance of pickets about the plant of the complainant, with short intermission, for a period of a year. It has been said in decided cases a sufficient number of times to dispense with this repetition, and it is known to every one, whether he belongs to a union or not, or who has had under consideration any of these contests between employer and employee, and their effect upon social life, that it lies at the bottom of every idea of just government that each man has a right to use his life and his ability to labor undisturbed by any interference whatsoever, so long as he does not, in the exercise of that right, disturb the right of any other man to do the same thing. There are at the foundation of all labor organizations, as there are at the foundation of religious organizations, and all the innumerable other forms of social organizations, certain ideas peculiar to each; and there is an undoubted right in the members of such organizations to promulgate their theories by reason, logic, argument, and the persuasive influence of those peaceful weapons, to the end that other men may be brought to think as they do. When that persuasion has been accomplished, the men persuaded may evidence such fact by joining the organization whose principles and theories they have come to believe. These unions have a perfect right, whether they are sound in their beliefs or not, to believe as they do; and the members thereof would be the last to admit that any other body of men had a right to command and coerce them into the observance of other beliefs. They have, as I have stated, a perfect right to entertain these beliefs, and to promulgate them; but they must not attempt to force them upon any one else by physical demonstrations. It is certainly true that this system of picketing, although it may not have been accompanied by violence on the part of those who have served as pickets, has [done] and will do injury.

It appears from affidavits filed that the complainant employs 500 or 600 men, 50 or 60 of whom are molders; that it pays to these molders extraordinary wages in the way of bonuses, these bonuses varying from three to five dollars per day; that it has hired men to accompany the few molders who have left the works while going to and from their homes; and that opportunities to sleep within the works have also been

furnished, so that the men engaged as molders, with few exceptions, have stayed within the works, day and night, for a period of at least six months. All the employees of the complainant, other than molders, have gone to and from their homes in the usual way, apparently uninfluenced by any fear of injury. I can not imagine a company resorting to these extraordinary expenses and pains without there was some cause; nor can I imagine the individual molders submitting to be thus confined unless intimidation of some sort had influenced them. This state of things is evidence of a higher character, in deciding the issue as to whether or not picketing tends to intimidate those against whom it is directed, than the statements in affidavits filed by the individual defendants to the effect that no means of intimidation have been used.

It is admitted that this system of picketing has existed at the instance of the defendants. It is, in a way, admitted that picketing is a means of enforcing the edicts of the defendant union, because it has been used in connection therewith. It goes without saying that this means would not have been used unless it were thought to be effective in some way. The only way in which it could be effective would be to produce in the minds of the nonunion men who have been employed against the wishes and orders of the union a feeling of fear that the menacing eye of this numerous organized body of men composing the union was upon them for some purpose not friendly; that watch was being kept to learn not only who came out, but when they might come out; that such espionage meant that the pickets were present for the purpose of waiting until some one should come out. The absence of violence may be explained by the fact that the nonunion molders did not come out of these works except at rare intervals, and then usually in considerable numbers. In this case there is proof of injury and interruption to the business of the complainant by the acts of the defendants, and it is not a departure from the line of decided cases to grant the injunction prayed for. No harm can result to the defendants by the granting of the injunction, except that they will be deprived of what they apparently conceive to be their right to enforce the unauthorized injunction which they themselves have issued. It has been said in an eloquent and learned decision that it can not too soon be learned, and learned thoroughly, that, under this Government at least, freedom of action, so long as a man does not interfere with the rights of others, will be protected and maintained; and that it is unlawful for any man to dictate to another what his conduct shall be, and to attempt to enforce such dictation by any form of undue pressure. Nor must intimidation be disguised in the assumed character of persuasion. Persuasion, too emphatic or too long and persistently continued, may itself become a nuisance, and its use a form of unlawful coercion. The injunction will be allowed, substantially as prayed for.

I am asked by counsel for the defendants just what is meant by "picketing." I think these defendants know what "picketing" means, as they have inaugurated it. It is the establishment and maintenance of an organized espionage upon the works, and upon those going to and from them.

LAWS OF VARIOUS STATES RELATING TO LABOR ENACTED SINCE JANUARY 1, 1896.

[The Second Special Report of the Department contains all laws of the various States and Territories and of the United States relating to labor in force January 1, 1896. Later enactments are reproduced in successive issues of the Bulletin from time to time as published.]

DELAWARE.

ACTS OF 1901.

CHAPTER 137.—*Examination, licensing, etc., of barbers.*

SECTION 1. A board of examiners, to consist of three reputable barbers, is hereby created, whose duty it shall be to carry out the purposes and enforce the provisions of this act. The members of said board shall be appointed by the governor, who shall select them from the barbers residing in the city of Wilmington, Delaware. The term for which the members of said board shall hold their office shall be for three years (except that two members of the board first to be appointed under this act, shall be designated by the governor to hold their office for the term of one and two years respectively), unless sooner removed by the governor, and until their successors shall be duly appointed in case of vacancy occurring in said board, such vacancy shall be filled in like manner by the governor. Each member of said board shall enter into a bond to the State of Delaware with one or more sureties to be approved by any judge of any court of this State, in the penal sum of five hundred dollars ($500), conditioned for the faithful performance of his official duties; said bond shall be filed in the office of the secretary of state, and before entering upon his duties each member shall be duly sworn or affirmed to faithfully and impartially perform the duties of his office.

SEC. 2. The said board shall choose one of its members president, one secretary and one treasurer thereof. It shall fix the time and place of meeting or meetings. A majority of said board shall at all times constitute a quorum and the proceedings thereof shall at all reasonable times be open to a reasonable inspection. The board shall also make an annual report of its proceedings to the governor. It shall have power to adopt reasonable rules and regulations, prescribing the sanitary requirements of a barber shop subject to the approval of the board of health of the city of Wilmington, and to cause the rules and regulations so approved to be printed in suitable form and to transmit a copy thereof to the proprietor of each barber shop in the said city of Wilmington. It shall be the duty of every proprietor or person operating a barber shop in said city to keep posted in a conspicuous place in his shop, so as to be easily read by his customers, a copy of such rules and regulations. A failure of any such proprietor to keep such rules so posted or to observe the requirements thereof, shall be sufficient ground for the revocation of his license, but no license shall be revoked without a reasonable opportunity being offered to such proprietor to be heard in his defense. Any member of said board shall have power to enter and make any reasonable examination of any barber shop in said city during business hours, for the purpose of ascertaining the sanitary conditions thereof. Any barber shop in which tools, appliances and furnishings in use therein are kept in an unclean and unsanitary condition so as to endanger health is hereby declared to be a public nuisance, and the proprietor thereof shall be subject to prosecution and punishment therefor.

SEC. 3. Said board shall meet at least three times in each year in the said city of Wilmington to conduct an examination of persons desiring to follow the business or occupation of barbers, and shall give at least ten days previous notice of the time and place of such meeting in at least two of the daily newspapers of the said city of Wilmington.

SEC. 4. This act shall take effect from the date of its passage and within sixty days thereafter it shall be the duty of every person who at the time of the passage of this

act shall have been engaged for the period of two years or more, either as journeyman or proprietor, in the business or occupation of a barber in said city of Wilmington, to cause his or her name and residence or place of business to be registered with said board of examiners. The statement of every such person so registering shall be verified under oath before a notary public of this State, and shall set forth his or her name and residence or place of business and the length of time he or she has acted or served as a barber. Every person who shall be so registered with said board as a barber, shall pay to the treasurer of said board the sum of two dollars and shall be entitled to receive from said board a certificate as a barber, and shall pay annually the sum of one dollar for a renewal of said certificate.

SEC. 5. Any person not within the provisions of section 4, or not registering thereunder, desiring to obtain a certificate of registration under this act shall make application to said board thereof, and shall pay to the treasurer of said board an examination fee of five (5) dollars, and shall present himself at the next regular meeting of the board for the examination of applicants, whereupon said board shall proceed to examine such person, and being satisfied that he is above the age of nineteen years, of good moral character, free from contagious diseases, that he has either studied the trade for at least three years as an apprentice under a qualified and practicing barber; or has practiced the trade in another State for at least two years, and is possessed of the requisite skill in said trade to properly perform all the duties thereof, including his ability in the preparation of tools, shaving, hair cutting, and all the duties and services incident thereto, his name shall be entered by the board in the register hereinafter provided for, and a certificate of registration shall be issued to him authorizing him to practice said trade in said city of Wilmington, which said certificate shall be good for one year. All persons who shall have passed a successful examination before said board shall be entitled to receive from said board a certificate thereafter annually upon the payment of a fee of one dollar.

SEC. 6. Each member of said board shall receive a compensation of five dollars per day for actual services, which compensation shall be paid out of the moneys in the hands of the treasurer of said board: *Provided*, That said compensation shall in no event be paid out of the State treasury.

SEC. 7. Nothing in this act shall prohibit any person from serving as an apprentice to said trade under a barber authorized to practice the same under this act: *Provided*, That in no barber shop in said city of Wilmington shall there be more than one apprentice to one barber authorized under this act to practice said occupation.

An apprentice within the meaning of this act is anyone who has entered into the employment of a qualified barber for a fixed term in order to learn the trade or art of barbering. Every apprentice in the said city of Wilmington in order to avail himself of the provisions of this act must file with the secretary of said board a statement in writing showing the name and place of business of his employer, the date of the commencement of employment with him, and his full name and age, and shall pay into the treasury of said board a fee of fifty (50) cents.

SEC. 8. Said board shall furnish to each person to whom a certificate of registration is issued a card or insignia good for the year for which the same is issued, bearing the signatures of its president and secretary, certifying that the holder thereof is entitled to practice the occupation of barber in said city, and the year for which it is issued printed in large figures; and it shall be the duty of the holder of such card or insignia to post the same and any renewal thereof in a conspicuous place in front of his working chair, where it may be readily seen by all persons whom he may serve.

SEC. 9. Said board shall keep a register in which shall be entered the names of all persons to whom certificates are issued under this act and said register shall be at all times open to public inspection.

SEC. 10. To shave or trim the beard or cut the hair of any person for hire or reward received by the person performing such service or any other person shall be construed as practicing the occupation of barber within the meaning of this act.

SEC. 11. It shall be unlawful for any person to follow the occupation of a barber without the certificate of said board of examiners. *Provided further*, That all persons making application (f) or examination under the provisions of this act shall be allowed to practice the occupation of barbering until the next regular meeting of said board.

* * * * * * *

SEC. 13. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof before any justice of the peace residing in the said city of Wilmington or by the municipal court of the city of Wilmington shall be fined not less than five nor more than fifty dollars, and any convicted person who shall refuse or neglect to pay such fine may be imprisoned in the county jail until such fine is paid, not exceeding, however, twenty days.

Approved March 9, 1901.

CHAPTER 165.—*Legal holidays—Lincoln's Birthday.*

SECTION 1. From and after the passage of this act, the twelfth day of February in each year, known as "Lincoln's Birthday," is declared and hereby made a legal holiday, and all laws, or parts of laws, of the State of Delaware applicable to, or having reference in any way to legal holidays are hereby extended, and are in all cases to be deemed and taken as applicable to the aforesaid twelfth day of February.

Approved March 7, 1901.

CHAPTER 209.—*Attachment of wages.*

SECTION 1. From and after the passage of this act ten per centum of the amount of the wages for labor or services of any person residing within New Castle County shall be subject to and liable to mesne attachment process and execution attachment process under the laws of this State, for or on account of any debt created and incurred subsequent to the passage of this act, thereby amending section 1, chapter 542, volume 16, laws of Delaware, as amended by chapter 222, volume 18, laws of Delaware, and making the same to read "That on and after the passage of this act, ninety per centum of the amount of the wages for labor or service of any person residing within New Castle County, shall be exempt from mesne attachment process, and execution attachment process, under the laws of this State. (Except where the said execution attachment process is for board or lodging or both, as the case may be, and for an amount not exceeding fifty dollars exclusive of costs.)

SEC. 2. The provisions of this act as to the liability to attachment process of ten per centum of wages for any debt, shall apply solely to debts incurred for or on account of the purchase of food, provisions and articles used in the home, commonly designated as the necessaries of life.

SEC. 3. On any amount of wages due for a stated and regular period (not exceeding one month) for the payment of such wages, only one attachment may be made, and any creditor causing such attachment to be made shall have the benefit of his priority, and further provided that the garnishee in any attachment made under the provisions of this act shall be paid the sum of fifteen cents, and that the total liability of the debtor for costs under any attachment laid in accordance with the provisions of this act shall not exceed the sum of ninety cents: *Provided, however*, That said costs incurred in the laying of any attachment under this act shall be paid out of the whole amount of said wages attached notwithstanding the provisions of section 1 of this act exempting ninety per centum of wages.

Approved February 19, 1901.

FLORIDA.

ACTS OF 1901.

CHAPTER 4961.—*Protection of seamen—Repeal.*

SECTION 1. Chapter 4170, acts of 1893, entitled "An Act to protect seamen from imposition, and to provide for the appointment of shipping agents," is hereby repealed.

SEC. 2. This act shall take effect from and after its approval by the governor.

Approved May 31, 1901.

CHAPTER 4974.—*Trade-marks of trade unions.*

SECTION 1. Whenever any person or any association or union of workingmen has heretofore adopted or used, or shall hereafter adopt or use, and has filed as hereinafter provided, any label, trade-mark, term, wording, design, device, color or form of advertisement for the purpose of designating, making known, or distinguishing any goods, wares, merchandise or other product of labor, as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workingmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade-mark, term, wording, design, device, color or form of advertisement, or knowingly to use, sell, offer for sale, or in any other way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, wording, design, device, color or form of advertisement.

SEC. 2. Whoever counterfeits or imitates any such label, trade-mark, term, wording, design, device, color or form of advertisement, or knowingly sells, offers for sale, or in any way utters or circulates any counterfeit or imitation of any such

label, trade-mark, term, wording, design, device, color or form of advertisement; or knowingly purchases and keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed; or knowingly purchases with intent to sell or dispose of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; or having knowingly purchased, keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than three months.

SEC. 3. Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade-mark, term, wording, design, device, color or form of advertisement as provided in section 1 of this act, may file the same for record in the office of the secretary of state by leaving two copies, counterparts or facsimiles thereof, with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, trade-mark, term, wording, design, device, color or form of advertisement shall be filed, the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, trade-mark, term, wording, design, device, color or form of advertisement shall be filed, has the right to the use of the same, that no other person, firm, association, union or corporation has the right to use either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct.

There shall be paid for such filing and recording a fee of two dollars. Said secretary shall deliver to such person, association or union so filing or causing to be filed any such label, trade-mark, term, wording, design, device, color or form of advertisement so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which the secretary shall receive a fee of one dollar. Any such certificate of record shall, in all suits and prosecutions under this act, be sufficient proof of the adoption of such label, trade-mark, term, wording, design, device, color or form of advertisement. Said secretary of state shall not record for any person, union or association any label, trade-mark, term, wording, design, device, color or form of advertisement that would probably be mistaken for any label, trade-mark, term, wording, design, device, color or form of advertisement heretofore filed by or on behalf of any other person, union or association.

SEC. 4. Any person who shall, for himself or on behalf of any other person, association or union procure the filing of any label, trade-mark, term, wording, design, device, color or form of advertisement in the office of the secretary of state, under the provisions of this act, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of such filing, to be recovered by or on behalf of the party injured thereby, in any court having jurisdiction, and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding three months.

SEC. 5. Every such person, association or union adopting or using a label, trade-mark, term, wording, design, device, color or form of advertisement as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and all courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and may award the complainant in any such suit damages resulting from any such manufacture, use, sale or display, as may be by the said court deemed just and reasonable, and shall require the defendants to pay such person, association or union all profits derived from such wrongful manufacture, use, display or sale; and such court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainants, to be destroyed.

SEC. 6. Every person who shall use or display the genuine label, trade-mark, term, wording, design, device, color or form of advertisement of any such person, association or union in any manner, not being authorized so to do by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment for not more than three months or by a fine of not more than five hundred dollars.

In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by an officer or member of such association or union on behalf of and for the use of such association or union.

SEC. 7. Any person or persons who shall, in any way, use the name or seal of any such person, association or union or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one hundred dollars.

SEC. 8. Any person using the trade-mark so adopted and filed by any other person, or any imitation of such trade-mark, or any counterfeit thereof; or who shall in any manner mutilate, deface, destroy or remove such trade-mark from any goods, wares, merchandise, article or articles, or from any package or packages containing the same, or from any empty or second-hand package, which has contained the same or been used therefor, with the intention of using such empty or second-hand package, or of the same being used to contain goods, wares, merchandise, article or articles of the same general character as those for which they were first used; and any person who shall use any such empty or second-hand package for the purpose aforesaid, without the consent in writing of the person whose trade-mark was first applied thereto or placed thereon, shall, upon conviction thereof, be fined in any sum not less than five hundred dollars, or by imprisonment for not more than three months, and the goods, wares, merchandise, article or articles contained in any such second-hand package or packages shall be forfeited to the original user of such package or packages whose trade-mark was first applied thereto or placed thereon. The violation of any of the above provisions as to each particular articles or packages shall be held to be a separate offense.

SEC. 9. The word "person" in this act shall be construed to include a person, copartnership, corporation, association or union of workingmen.

SEC. 10. This act shall take effect immediately upon its passage and approval by the governor.

Approved May 29, 1901.

CHAPTER 5015.—*Protection of employees in trading or refusing to trade with any particular person or persons.*

SECTION 1. It shall be unlawful for any person or persons, firm, joint stock company, association or corporation, organized, chartered or incorporated by and under the laws of this State, either as owner or lessee, having persons in their service as employees, to discharge any employee or employees in their service for trading or dealing, or for not trading or dealing as a customer or patron with any particular merchant or other person or class of persons in any business calling, or to notify any employee or employees either by general or special notice, directly or indirectly, secretly or openly given, not to trade or deal as a customer or patron with any particular merchant, or person or class of persons in any business or calling, under penalty of being discharged from the service of such firm, joint stock company, corporation or association, doing business in this State as aforesaid.

SEC. 2. Any person or persons, firm, joint stock company, association, or corporation, organized, chartered or incorporated under the laws of this State, or operated in this State, violating any of the provisions of the foregoing section, shall be guilty of a misdemeanor, and on conviction shall pay a fine of not more than one thousand dollars for each offense for which convicted.

SEC. 3. Any person acting as an officer or agent of any firm, joint stock companies, associations or corporations of the kind and character hereinbefore described, or for any one of them who makes or executes any notice, order or threat of the kind hereinbefore forbidden, shall be guilty of a misdemeanor, and on conviction shall pay a fine of not more than five hundred dollars, and be imprisoned in the county jail not more than six (6) months, or both such fine and imprisonment.

SEC. 4. All laws and parts of laws in conflict with this act are hereby repealed.

Approved May 22, 1901.

CHAPTER 5016.—*Protection of employees as voters.*

SECTION 1. It shall be unlawful for any person or persons, firm, joint stock company, association or corporation, organized, chartered or incorporated by and under the laws of this State either as owner or lessee, having persons in their service as employees, to discharge any employee or employees, or to threaten to discharge any employee or employees in their service for voting or for not voting in any election,

State, county, or municipal, for any person as candidate or measure submitted to a vote of the people.

SEC. 2. Any person or persons, firm, joint stock company, association or corporation, organized, chartered or incorporated under the laws of this State, or operated in this State violating any of the provisions of the foregoing section, shall be guilty of a misdemeanor, and on convicti[o]n shall pay a fine of not more than one thousand dollars for each offense for which convicted.

SEC. 3. Any person acting as an officer or agent of any firm, joint stock companies, associations or corporations of the kind and character hereinbefore described, or any one of them who makes or executes any notice, order, or threat of the kind hereinbefore forbidden shall be guilty of a misdemeanor, and on conviction shall pay a fine of not more than five hundred dollars, or be imprisoned in the county jail not more than six (6) months.

SEC. 4. All fines hereinbefore described shall be for the benefit of the public schools in the county or counties where such offenses are committed.

SEC. 5. All laws and parts of laws in conflict with this act are hereby repealed.

Approved May 22, 1901.

CHAPTER 5069.—*Examination, licensing, etc., of stationary engineers—Inspection of steam boilers.*

SECTION 1. All cities [of] over five thousand inhabitants are hereby granted express powers to pass and enforce all ordinances that will compel each and every stationary steam engineer to take out a license to carry on their said vocation, in such sums as the said cities may impose: *Provided*, The said sum shall not exceed the limits specified in the general revenue laws of the State of Florida.

SEC. 2. The provisions of section 1, regarding the amount of license, shall not apply to cities which operate under a special charter, when said charter grants the power to impose licenses without respect to the general revenue statute.

SEC. 3. Cities of over five thousand inhabitants may provide by ordinance for an inspection of boilers and an examiner of stationary steam engineers, to inspect steam boilers, except marine and locomotive boilers used on regular lines of railway, and shall regulate by ordinance the qualifications of the said inspector and examiner, their terms of office, salary or fees, and all other matters and things connected with their said duties.

SEC. 4. The office of inspector and examiner of stationary steam engineers may be combined in one person by ordinance.

SEC. 5. The said examiner of stationary steam engineers shall be empowered to require such qualifications of all stationary steam engineers aforesaid as would be reasonable in conserving public safety, and said examination shall be held at such times and places as may be required by ordinance.

SEC. 6. Licenses granted to stationary steam engineers shall be exposed in any public manner as required by ordinance.

SEC. 7. Any employer, employing other than a licensed stationary steam engineer, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars, or imprisonment not exceeding one year in the county jail, or both such fine and imprisonment.

SEC. 8. Any employer, or his manager or servant, who shall refuse the inspector of steam boilers aforesaid an opportunity to inspect the boiler or boilers in their charge or control, shall be guilty of a misdemeanor, and in such case the employer shall be equally guilty with his manager or servant when refusal is made by the said manager or servant, and upon conviction each shall be punished by a fine of not exceeding one thousand dollars, or imprisonment not exceeding one year in the county jail, or both such fine and imprisonment.

SEC. 9. Any stationary steam engineer who shall accept employment without having first passed the said examination and taken out a license thereunder, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than one thousand dollars, or imprisonment not exceeeding one year in the county jail, or both such fine and imprisonment.

Approved May 30, 1901.

ILLINOIS.

ACTS OF 1901.

Board of arbitration

[Page 90.]

SECTION 1. An act entitled, "An act to create a State board of arbitration" * * * [shall] be amended by inserting therein a new section to read as follows:

SEC. 6b. Whenever there shall exist a strike or a lockout, wherein, in the judgment of a majority of said board, the general public shall appear likely to suffer injury or inconvenience with respect to food, fuel or light, or the means of communication or transportation, or in any other respect, and neither party to such strike or lockout shall consent to submit the matter or matters in controversy to the State board of arbitration, in conformity with this act, then the said board, after first having made due effort to effect a settlement thereof by conciliatory means, and such effort having failed, may proceed of its own motion to make an investigation of all facts bearing upon such strike or lockout and make public its findings, with such recommendations to the parties involved as in its judgment will contribute to a fair and equitable settlement of the differences which constitute the cause of the strike or lockout; and in the prosecution of such inquiry the board shall have power to issue subpœnas and compel the attendance and testimony of witnesses as in other cases.

Approved May 11, 1901.

Exemption of wages from garnishment.

[Page 214.]

SECTION 1. Section fourteen (14) of an act entitled, "An act in regard to garnishment," is hereby amended so as to read as follows:

SEC. 14. The wages for services of a wage-earner who is the head of a family and residing with the same to the amount of fifteen (15) dollars per week shall be exempt from garnishment. All above the sum of fifteen (15) dollars per week shall be liable to garnishment.

Every employer shall pay to such wage-earner such exempt wages not to exceed the sum of fifteen (15) dollars per week of each week's wages earned by him, when due, upon such wage-earner making and delivering to his employer his affidavit that he is such head of a family and residing with the same, notwithstanding the service of any writ of garnishment upon such employer, and the surplus only above such exempt wages shall be held by such employer to abide the event of the garnishment suit. If the amount of wages subject to garnishment shall not equal the costs of the garnishment, whatever remains of costs shall be paid by the person bringing the garnishment proceedings, and judgment shall be entered therefor against him, and no judgment for any such deficiency of costs shall go against the wage-earner or the defendant. No employer so served with garnishment shall in any case be liable to answer for any amount not earned by the wage-earner at the time of the service of the writ of garnishment. Before bringing suit a demand in writing shall first be made upon the wage-earner and the employer for the excess above the amount herein exempted, and a copy of such demand shall be left with him and with the employer, having endorsed thereon the time of service, at least twenty-four hours previous to bringing such suit. Such notice shall be filed with the justice, or clerk of the court, with the manner and time of the service of the same endorsed thereon, and the return duly sworn to before some officer authorized to administer oaths, before it shall be lawful to issue a summons in such case, or to require an employer to answer in any garnishee proceedings. Any judgment rendered without said demand being served upon the wage-earner, and so proven and filed as aforesaid, shall be void. The excess of wages shall be held by the employer, subject to garnishment by the creditor serving demand, for five (5) days after such service of demand.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved May 11, 1901.

Employment of women and children—Factory inspection.

[Page 231.]

SECTION 1. Section[s] four (4) and nine (9) of an act entitled, "An act to regulate the employment of children in the State of Illinois," [are] hereby amended so as to read as follows:

SEC. 4. No person under the age of sixteen years shall be employed or suffered to work for wages at any gainful occupation more than sixty hours in any one week, nor more than ten hours in any one day. All establishments subject to factory inspection, where girls and women are employed, shall provide suitable seats for the use of the girls and women, and they shall be permitted the use of such seats when not necessarily engaged in their active duties.

SEC. 9. Any person, firm or corporation, agent or manager, superintendent or foreman, of any firm or corporation, who, whether for himself or for such firm or corporation, or by himself or through sub-agents or foreman, superintendent or manager, shall violate or fail to comply with any of the provisions of this act, or shall refuse admittance to premises or otherwise obstruct the factory inspector or deputy factory inspectors in the performance of their duties, as prescribed by this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars, or imprisonment in the county jail not less than ten days nor more than thirty days, for each offense, or both fine and imprisonment, in the discretion of the court, and shall stand committed until such fine and costs are paid.

Approved May 10, 1901.

Soldiers and sailors granted peddlers' license without fee.

[Page 236.]

SECTION 1. On and after the passage of this act all ex-union soldiers and sailors, honorably discharged from the military or marine service of the United States, shall be permitted to vend, hawk and peddle goods, wares, fruits or merchandise not prohibited by law, in any county, town, village, incorporated city or municipality within this State without a license: *Provided*, Said soldier or sailor is engaged in the vending, hawking and peddling of said goods, wares, fruits or merchandise for himself only.

SEC. 2. Upon the presentation of his certificate of discharge to the clerk of any county, town, village, incorporated city or municipality in this State, and showing proofs of his identity as the person named in his certificate of honorable discharge, the clerk shall issue to said ex-union soldier or sailor a license, but such license shall be free, and said clerk shall not collect or demand for the county, town, village, incorporated city or municipality any fee therefor. Any clerk of any county, town, village, incorporated city or municipality in this State who shall violate any of the foregoing provisions of this act, by failing or refusing to comply with such provisions, as herein directed, shall be fined in a sum not less than ten dollars ($10) nor more than fifty dollars ($50), to which may be added imprisonment in the county jail not exceeding ten (10) days.

Approved May 11, 1901.

Mine regulations—Inspection, etc., of oil.

[Page 247.]

SECTION 1. Section one of "An act to prohibit the use of certain oils in coal mines," is hereby amended so as to read as follows: That only a pure animal or vegetable oil, or other oil as free from smoke as a pure animal or vegetable oil, and not the product or by-product of resin, and which has been inspected and complies with the following test, shall be used for illuminating purposes in the mines of this State. All such oils must be tested at 60 degrees Fahrenheit. The specific gravity of the oil must not exceed 24 degrees Tagliabue. The test of the oil must be made in a glass jar one and five-tenths inches in diameter by seven inches in depth. If the oil to be tested is below 45 degrees Fahrenheit in temperature, it must be heated until it reaches about 80 degrees Fahrenheit; and should the oil be above 45 degrees and below 60 degrees Fahrenheit, it must be raised to a temperature of about 70 degrees Fahrenheit, when, after being well shaken, it should [shall] be allowed to cool gradually to a temperature of 60 degrees Fahrenheit, before finally being tested.

In testing the gravity of the oil, the Tagliabue hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading. In case the oil under test should be opaque, or turbid, one-half of the capillary attraction shall be deemed and taken as the true reading. Where the oil is tested under difficult circumstances, an allowance of one-half degree may be made for possible error in parallax before condemning the oil for use in the mine. It shall be the duty of the State inspectors of mines, in the several districts of this State, to make the inspection provided for in this section before any such oil is sold for use in any mine in this State. All oil sold to be used for illuminating purposes in the mines of this State shall be contained in barrels or packages branded conspicuously with the name of the dealer, the specific gravity of the oil, the date of shipment, the date and place of inspection, and the name of the State inspector of mines making the said inspection. It is *provided*, however, that any material that is as free from smoke and bad odor and of equal merit as an illuminant as a pure animal or vegetable oil may be used at the pleasure of mine operators and miners.

Approved May 11, 1901.

MAINE.

ACTS OF 1901.

CHAPTER 234.—*Manual training schools.*

SECTION 1. Cities and towns may raise and appropriate money for the support of manual training schools in addition to the sum they raise for the support of public schools.

SEC. 2. Said manual training schools shall admit such persons between the age of six and twenty-one years, and shall give such courses of instruction as the local school board may determine.

SEC. 3. Said manual training school shall be under the control, direction and supervision of local school boards.

SEC. 4. Pupils in such schools shall be subject to the same conditions, rules and regulations as are provided for public schools.

SEC. 5. Cities and towns may receive gifts and bequests for the use, maintenance and support of manual training schools.

SEC. 6. This act shall take effect when approved.

Approved March 21, 1901.

CHAPTER 237.—*Industrial school for girls—Indenture of inmates.*

SECTION 1. Section twenty of chapter one hundred and forty-two of the revised statutes is hereby amended, so that said section, as amended, shall read as follows:

SEC. 20. The board of trustees of said school shall have all the powers as to the person, property, earnings and education of every girl committed to the charge of said trustees, during the term of her commitment, which a guardian has as to his ward, and all powers which parents have over their children. At the discretion of said board, any such girl, during her commitment may be kept at said school, or intrusted to the care of any suitable person and may be required to work for such person, or may be bound by deed of indenture to service or apprenticeship for a period not exceeding the term of her commitment, on such conditions as said board may deem reasonable and proper. Such indenture shall specify the conditions, and shall require the person to whom such girl is bound, to report to said board as often as once in three months the conduct and behavior of such girl, and whether she remains under such master or mistress, and if not, where she is. Said trustees shall take care that the terms of such indenture are fulfilled, and the girl well treated, and if they believe that by reason of her misconduct, vicious inclinations or surroundings, she is in danger of falling into habits of vice or immorality, or that her welfare is in any way imperiled, they may cancel such indenture and resume charge of such girl with the same powers as before the indenture was made. The powers of said board with respect to any girl intrusted, as herein provided, to the care of a suitable person are not affected thereby, nor by her being bound to service or apprenticeship, except as expressed in the bond of indenture. Said trustees, master or mistress and apprentice, shall have all the rights and be subject to all the duties and penalties provided in case of children apprenticed by overseers of the poor. Any member of said board may execute such indenture deed in behalf of the board if authorized by a vote of

said board. Said board may, by vote in any case, or by a general by-law, authorize a member or committee of said board, or the principal of said school to intrust said girls to the care and service of a suitable person or persons without indenture, to see to their welfare during such service, and to require their return to said school at discretion.

Approved March 21, 1901.

CHAPTER 244.—*Exemption of wages from garnishment.*

SECTION 1. Clause six of section fifty-five of chapter eighty-six of the revised statutes is hereby amended so that said clause shall read as follows:

VI. By reason of any amount due from him to the principal defendant, as wages for his personal labor, or that of his wife or minor children, for a time not exceeding one month next preceding the service of the process, and not exceeding twenty dollars of the amount due to him as wages for his personal labor; and this is not exempt in any suit for taxes or for necessaries furnished him or his family; moreover, wages of minor children and of women, are not, in any case, subject to trustee process on account of any debt of parent or husband.

SEC. 2. This act shall take effect when approved.

Approved March 21, 1901.

CHAPTER 277.—*Peddlers and hawkers—Soldiers and sailors granted license without fee.*

SECTION 1. No person shall go about from town to town, or from place to place in same town, exposing for sale or selling, any goods or chattels other than fruit grown in the United States, fruit trees, provisions, live animals, brooms, pianos, organs, wagons, sleighs, agricultural implements, fuel, newspapers, agricultural products of the United States, the product of his own labor or the labor of his family, any map made by him and copyrighted in his name, any patent of his own invention, or in which he has become interested by being a member of any firm, or stockholder in any corporation which has purchased the patent, until he shall have procured a license so to do as hereinafter provided.

SEC. 6. Any soldier or sailor disabled in the military or naval service of the United States, or by sickness or disability contracted therein or since his discharge from service, and any person who is blind shall be exempt from paying the license fees required by this chapter.

SEC. 14. The provisions of this chapter are not applicable to commercial agents, selling goods by sample to dealers only.

SEC. 15. All acts and parts of acts inconsistent herewith, are repealed.

SEC. 16. This act shall not take effect until May fifteen, nineteen hundred and one.

Approved March 22, 1901.

MISSOURI.

ACTS OF 1901.

Examination, licensing, etc., of barbers.

[Page 50.]

SECTION 1. Section 5034 of Revised Statutes, 1899, is hereby amended by striking out in the last line of said section the figures 50,000, and in place thereof insert[ing] the figures 5,000, so that said section will read as follows:

SEC. 5034. It shall be unlawful for any person to follow the occupation of a barber in this State, unless he shall have first obtained a certificate of registration, as provided in this chapter: *Provided, however*, That nothing in this chapter contained shall apply to or affect any person who is now actually engaged in such occupation, except as hereinafter provided: *Provided*, That the provisions of this law shall not apply to barbers in any city, town or village, containing less than 5,000 inhabitants.

Approved March 22, 1901.

Board of mediation and arbitration.

[Page 195.]

SECTION 1. Within thirty days after the passage of this act, the governor of the State, by and with the advice and consent of the senate, shall appoint three competent persons to serve as a State board of mediation and arbitration; one of whom

shall be an employer of labor, or selected from some association representing employers of labor, and one who shall be an employee holding membership in some bona fide trade or labor union; the third shall be some person who is neither an employee nor an employer of labor. One member of said board shall be appointed for one year, one for two years, and one for three years, and all appointments thereafter shall be for three years or until their respective successors are appointed in the manner herein provided. If a vacancy occurs in said board by death or otherwise, at any time, the governor shall appoint some competent person to fill the unexpired term.

SEC. 2. The board shall appoint a secretary, who shall hold office during the pleasure of said board, and whose duty it shall be to keep a full and faithful record of the proceedings of the board, and shall also have possession of all books and documents, and shall perform such other duties as the board may prescribe. He shall, under the direction of the board, issue subpoenas and administer oaths in all cases before the board and shall call for and examine books, papers and documents of any parties to the controversy.

SEC. 3. The compensation of the members of the board of mediation and arbitration and the clerk thereof shall be as follows: Each shall receive five dollars per day and three cents per mile, both ways, between their homes and the place of meeting, by the nearest comfortable routes of travel, and such other necessary traveling expenses as may be incurred in the discharge of their duties, to be paid out of the State treasury upon a warrant signed by the president of said board and approved by the governor: *Provided*, That neither said board nor the clerk thereof shall receive any compensation except for time actually engaged in the discharge of their duties as set forth in this act and in going to and from the place of meeting.

SEC. 4. Each member of said board shall, before entering upon the duties of his office, be sworn to support the Constitution and faithfully demean himself in office. They shall organize at once by the choice of one of their number as chairman and the board shall, as soon as possible after its organization, establish suitable rules of procedure. Said board may hold meetings at any time or place in the State, whenever the same shall become necessary, and two members of the board shall constitute a quorum for the transaction of business.

SEC. 5. Whenever it shall come to the knowledge of the board that a strike or lockout is about to occur, or is seriously threatened, involving ten or more persons, in any part of the State, it shall be the duty of said board to proceed as soon as possible to the locality of such dispute, strike or lockout and place itself in communication with the parties to the controversy, and endeavor by mediation to effect a settlement. Should all efforts at conciliation fail, it shall be the duty of the board to inquire into the cause or causes of said grievance or dispute, and to this end, it is hereby authorized to subpoena and examine witnesses, compel their attendance and send for books and papers with the same authority possessed by courts of record, or the judges thereof in this State. Subpoenas may be signed and oaths administered by any member of the board. Said board is further authorized to subpoena as witnesses anyone connected with the department of business affected, or other persons whom they may suspect of having knowledge of the matters in controversy or dispute, and anyone who keeps the records of the wages earned in such department, and examine them under oath touching such matters and require the production of books and papers containing the record of wages earned or paid. All process issued by said board may be delivered or sent to any sheriff, constable or police officer, who shall forthwith serve or post the same as may be required, and make due return thereof, according to directions, and for such service he shall receive the fees allowed by law in similar cases, payable from the treasury of the county or city wherein the controversy to be arbitrated exists, upon a warrant signed by the president of the board of mediation and arbitration. Witnesses shall receive the same compensation as witnesses in courts of record which shall be paid in the same manner as sheriffs, constables and police officers above mentioned. And the board shall have the same power and authority to maintain and enforce order at its hearings and obedience to its process, as by law is now conferred upon circuit courts.

SEC. 6. In all cases when any grievance or dispute shall arise between any employer and his employees, said dispute involving ten or more employees, it shall be the duty of the parties to said controversy to submit the same to said board for investigation. Within ten days after the completion of said examination or investigation, authorized by this article, the board or a majority thereof, shall render a decision stating such details as will clearly show the nature of such controversy, and points in dispute disposed of by them and make a written report of their findings and recommendations, and shall furnish the governor and each party to the controversy a true and com-

plete copy of the same, and shall have a copy thereof published in some local newspaper.

SEC. 7. In all cases where the application for arbitration is mutual, or both parties agree to submit to the decision of the board, said decision shall be final and binding upon the parties concerned in said controversy and dispute. In all cases where either party to a dispute refuses to agree to arbitration the decision of the board shall be final and binding upon the parties thereto, unless exceptions be filed with the clerk of said board, within five days after said decision is rendered and announced.

SEC. 8. Any employer, employer's agent, employee or authorized committee of employees, who shall violate the conditions of the decision of said board, as provided for in section seven of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be punished by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment in jail not exceeding six months, or by both such fine and imprisonment.

SEC. 9. Said board shall make biennial reports to the governor of the State, and shall include therein such statements, facts, and explanations as will disclose the actual workings of the board, and such suggestions as to legislation as may seem to the members of the board conducive to a speedy and satisfactory adjustment of disputes between employers and employees.

SEC. 10. Article 2 of chapter 121 of the Revised Statutes of Missouri, 1899, is hereby repealed.

SEC. 11. There being no adequate law in Missouri for the settling of disputes between employers and employees, creates an emergency within the meaning of the constitution; therefore, this act shall take effect and be in force from and after its passage.

Approved March 7, 1901.

Inspection of factories.

[Page 197.]

SECTION 1. Within thirty days after the passage of this act the governor of the State, with the advice and consent of the senate, shall appoint a competent person to serve as factory inspector who shall hold office for four years from the date of his appointment or until his successor is appointed and qualified. The factory inspector may appoint from time to time assistants, not more than seven in number, who may be removed by him at any time for just cause. Before entering upon his official duties the inspector shall make oath to support the constitution and faithfully demean himself in office; he shall also execute a bond to the State of Missouri, in such sum as the governor may prescribe, with two or more solvent sureties, to be approved by the governor, conditioned upon his faithful performance of the duties imposed upon him by this act.

SEC. 2. The factory inspector may divide the State into districts, assign one or more assistant inspectors to each district, and may in his discretion transfer them from one district to another. It shall be the duty of all inspectors provided for by this act to make at least two inspections during each year, the last to be completed on or before the first day of October, of all factories and enforce all laws relating to factory inspection and prosecute all persons violating the same. Any lawful municipal ordinance or regulation relating to factories or their inspection and not in conflict with State laws shall be observed and enforced by the factory inspector. The factory inspector and all assistant inspectors and clerks may administer oaths and take affidavits in matters relating to the enforcement of the various factory inspection laws.

SEC. 3. The inspectors provided for in this act shall be entitled to demand and receive from the owner, superintendent, manager or other person in charge of every establishment inspected as provided for by law the sum of one dollar for each inspection made in accordance with the provisions of this act, and his receipt given therefor shall certify to the result of such inspection, with the orders, if any are given, noted thereon; and any owner, superintendent, manager or other person in charge of such establishment who shall refuse or attempt to prevent, the admission upon or within his or their premises or buildings, at any reasonable business hour, of any inspector authorized by this act, or shall in any manner interfere with the performance of the official duties of such inspector, or shall neglect or refuse to pay the inspection fee upon the completion of such inspection, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense: *Provided*, That the owner or manager of any establishment subject to inspection shall not be required to pay for more than two such

inspections within one year except where additional inspections are made necessary through failure of such owner or manager to comply with the written orders of the inspector.

SEC. 4. All fees received by the inspector under the provisions of this act shall be paid into the State treasury on or before the last day of each month to be placed to the credit of the "factory inspection fund." The factory inspector shall receive an annual salary of one thousand five hundred dollars and actual necessary expenses; the assistant factory inspectors shall receive one hundred dollars per month and necessary expenses for the time actually employed, to be paid monthly out of said factory inspection fund upon the warrant of the State auditor, issued on vouchers therefor. The factory inspector may establish and maintain an office in the city of St. Louis if in his opinion necessary for the enforcement of the provisions of this act: *Provided*, That no salary or expense shall be paid for the factory inspector or assistant inspectors in excess of the receipts from the fees paid into the factory inspection fund; *And provided further*, That the salary of the factory inspector and his assistants and all expenses for traveling, office rent, printing, stationery and postage, shall be limited for the biennial term of two years to an amount not exceeding twenty-five thousand dollars, and all money remaining in said factory inspection fund at the close of each biennial term, after the payment of the salaries and expenses herein provided for, shall be transferred to the general revenue fund.

SEC. 5. There is hereby appropriated out of the "Factory inspection fund" the sum of $25,000 or so much thereof as may be necessary for the purpose of carrying out the provisions of this act.

SEC. 6. The necessity for the immediate enforcement of the provisions of this act creates an emergency within the meaning of the constitution; therefore, this act shall take effect and be in force from and after its passage.

Approved April 17, 1901.

Payment of wages.

[Page 199.]

SECTION 1. The employees of the operators of all manufactories, including plate-glass manufactories, operated within this State shall be regularly paid in full of all wages due them at least once in every fifteen days, and at no pay-day shall there be withheld from the earnings of any employee any sum to exceed the amount due him for his labor for five days next preceding any such pay-day. Any such operator who fails to pay his employees, their agents or assigns or anyone duly authorized to collect such wages, as in this section provided, shall become immediately liable to any such employee, his agents or assigns for an amount double the sum due such employee at the time of such failure to pay the wages due, to be recovered by civil action in any court of competent jurisdiction within this State, and no employee, within the meaning of this section shall be deemed to have waived any right accruing to him under this section by any contract he may make contrary to the provisions hereof.

Approved March 20, 1901.

Mine regulations—Hours of labor.

[Page 211.]

SECTION 1. Sections 8793 and 8794 of chapter 133 of article 2 of the Revised Statutes of Missouri, 1899, are hereby repealed and the following new sections enacted in lieu thereof:

SEC. 8793. It shall be unlawful for any person or corporation engaged in mining for minerals, coal or any valuable substance, or making excavations beneath the surface of the earth while searching for minerals, coal or any valuable substance, to work their hands or employees at such labor or industry longer than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day for all laborers or employees engaged in the kind of labor or industry aforesaid.

SEC. 8794. Any person or persons or corporation who shall violate any of the provisions of the preceding section shall on conviction, be fined in a sum not less than twenty-five nor more than five hundred dollars.

Approved March 23, 1901.

Mine regulations—Signals—Hoisting—Employment of children.

[Page 211.]

SECTION 1. Section 8811 of article 2 of chapter 133 of the Revised Statutes of Missouri of 1899, is hereby repealed and a new section, to be known as section 8811, is enacted in lieu of the same, as follows, to wit:

SEC. 8811. The owner, agent or operator of every mine operated by shaft shall use the following code for signaling between the bottom and top thereof, to wit:

1 whistle or bell—Stop when in motion, hoist when not in motion.
2 whistles or bells—Lower.
3 whistles or bells—Hoist mineral.
4 whistles or bells—Men on cage.
5 whistles or bells—Turn on air.
5 whistles or bells—Turn off air.
6 whistles or bells—Turn on steam.
6 whistles or bells—Turn off steam.
7 whistles or bells—Mules on.

Said owner, agent or operator shall also provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe as far as possible, persons descending into and ascending out of said shaft; and such cage shall be furnished with guides to conduct it on slides through such shaft, with a sufficient break on every drum to prevent accident in case of the giving out or breaking of machinery; and such cage shall be furnished with spring catches, intended and provided, as far as possible, to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery; no props or rails shall be lowered in a cage while the men are descending into or ascending out of said mine: *Provided*, That the provisions of this section in relation to covering cages with boiler iron shall not apply to coal mines less than one hundred feet in depth, where the coal is raised by horse power. No male person under the age of twelve years, or female of any age, shall be permitted to enter any mine to work therein, nor shall any boy under the age of fourteen years, unless he can read and write, be allowed to work in any mine. Any party or person neglecting or refusing to perform the duties required to be performed by the provisions of this article shall be deemed guilty of a misdemeanor, and punished by a fine in the discretion of the court trying the same, subject, however, to the limitations as provided by section 8815 of this article.

Approved March 22, 1901.

Mine regulations—Inspection of mines.

[Page 212.]

SECTION 1. Section 8818 of article 2 of chapter 133 of the Revised Statutes of Missouri of 1899, is hereby repealed and a new section, to be known as section 8818, is enacted in lieu of the same as follows, to wit:

SEC. 8818. The inspectors provided for in this article shall see that every necessary precaution is taken to secure the health and safety of the workmen employed in any of the mines in the State, that the provisions and requirements provided for in this article be faithfully observed and obeyed, and the penalties of the law enforced. They shall also collect and tabulate in their report, to be made to the governor on the 15th day of April of each year, the extent of the workable mining lands in the State by counties; also, the manner of mining, whether by shaft, slope, drift or otherwise, the number of mines in operation, the number of men employed therein, the amount of capital invested and the amount and value of all mine products. And in order that the provisions of this section may be faithfully enforced, it shall be the duty of every mine owner, operator or lessee doing business of a mining nature, embracing lead, zinc, coal, copper, iron or other minerals within this State, to report to the inspectors within 20 days following the 1st day of January of each year, the name of the person, firm, corporation or company doing a mining business, where the mines are located, the number of acres owned or leased of minable lands, the capital invested in lands and plant, the number of shafts, drifts, slopes or open cuts operated, the number of men employed in and about the mines, average wages paid employees, the amount of mineral produced, the average price received for said products and all such other information pertaining to mining as may be required by the inspectors; coal mine operators reporting to the coal mine inspector and the operators of all other mines to the inspector of lead, zinc and other mines upon blanks which the inspectors are hereby authorized to furnish for such purpose; it shall also be the duty of

every mine owner or operator doing a mining business in this State, who sells or disposes of such mining property to another person, firm, company or corporation, to furnish to the purchaser or purchasers thereof, a certified statement of the amount and value of all mine products, the average number of men employed and the average wages paid, for that portion of the calendar year that such mining property has been operated; and such purchaser or purchasers shall preserve and incorporate the same in the annual report required under this act; it shall also be the duty of all operators to require of their sublessees a monthly statement of the average number of men employed each month and the average wages paid them, that correct accounting may be made of the same in the annual report required; it shall also be the duty of all persons, companies or corporations opening up new mines or mining property to promptly report the same to the inspector.

SEC. 2. When any owner, operator or lessee of any mine within this State shall fail or refuse to comply with the provisions of section 1 of this article, such offender shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not less than one hundred dollars nor more than three hundred dollars for each offense, and the State mine inspector is hereby authorized to certify such failure or refusal to the county prosecuting attorney, in which county the offense was committed, whose duty it shall be to prosecute such offender or offenders.

Approved March 27, 1901.

Mine regulations—Explosives.

[Page 214.]

SECTION 1. Sections 8826 and 8827, article 2 of chapter 133 of the Revised Statutes of 1899, entitled "Safety and inspection of mines," are hereby repealed, and the following new sections enacted in lieu thereof, which said sections shall read as follows:

SEC. 8826. All owners, agents or operators of coal, lead, zinc, iron and copper mines, and of granite, stone and other quarries, shall require all miners or other persons employed in and about said mines or quarries, using gun and blasting powder, giant powder, dynamite or other explosives, to have and keep a strong box in which all surplus explosives for use in said mines or quarries shall be kept, except so much thereof as is necessary for immediate use. These boxes shall be kept locked and not opened unless it be to put in or take out said explosives or some part thereof; nor shall these strong boxes be kept nearer than one hundred feet to the place of blasting. And in all said mines and quarries shot firers or blasters shall be employed to fire all shots after the employees and other persons have retired to a safe distance from the vicinity of said blast or blasts; and after said blasts have been fired, said shot firer or blaster shall make a thorough examination of all holes charged, and ascertain whether the same have been discharged or missed, and shall designate in some way the holes missed or undischarged and report the same to all employees working in the vicinity of such blast or blasts.

SEC. 8826a. Any person, corporation or association engaged in the sinking of a well or a shaft, whether as owner, agent or employee, in which it is necessary to use blasting powder, dynamite or other explosives, and where hoisting apparatus of any kind is used, shall provide and use, or cause to be used, an electric battery and fuses for firing all shots of explosive in the shaft, and said shots shall be fired by the battery while placed above ground and connected to the shots by means of copper wire or other suitable conductor; and no owner, agent or employee engaged in sinking a well or a shaft or operating any mine shall use caps and fuse or any other method of exploding shots than that above specified: *Provided, however,* That the provisions of this and the preceding section shall not apply to lead and zinc mines in which are employed less than ten men under ground on any shift, nor to any one engaged in private enterprises other than mining.

SEC. 8827. Penalty.—Any agent, owner or operator of any coal, lead, zinc, iron or copper mines, and of granite, stone and other quarries in this State violating the provisions of the two preceding sections shall be deemed guilty of a misdemeanor and for each offense upon conviction, shall be fined not less than fifty nor more than two hundred dollars.

Approved March 27, 1901.

Mine regulations—Qualifications of miners.

[Page 215.]

SECTION 1. Section 8828, chapter 133, article 2 of the Revised Statutes of the State of Missouri of 1899 is hereby repealed and the following new section enacted in lieu thereof:

SEC. 8828. Any person desiring to perform the work of a coal miner and for himself to conduct room, entry or other underground mining in coal mines of this State, shall, before being permitted to engage in such work, produce evidence of a satisfactory nature that he has for one (successive) year(s) worked in coal mines with or as a practical miner; such applicant to furnish evidence of his experience and qualifications to the coal mine inspector, or to the person designated by said inspector to pass upon the competency of such applicant, and until said applicant shall have fully satisfied the coal mine inspector or the party designated by the said inspector at the mine, wherein such employment is sought of his fitness to perform the duties as above mentioned, he shall not be permitted to mine coal unless associated with a practical miner for such length of time as will qualify said applicant to safely for himself and others perform underground work, and any owner, agent or operator of any coal mine in this State who shall knowingly violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars for each and every offense, or by imprisonment in the county jail for a period of not less than thirty days nor more than sixty days or by both such fine and imprisonment. Proceedings to be instituted in any courts having competent jurisdiction.

Approved March 12, 1901.

Fire escapes on factories, etc.

[Page 219.]

SECTION 1. It shall be the duty of the owner, proprietor, lessee, or keeper of every hotel, boarding and lodging house, school house, opera house, theatre, music hall, factory, office building in the State of Missouri, and every building therein where people congregate or which is used as a business place, or for public or private assemblage which has a height of three or more stories to provide said structure with fire escapes attached to the exterior of the building and by staircases located in the interior of the building. The fire escapes shall commence at the sill of the second story window and run three feet above the upper window sill of the upper story with an iron ladder from the upper story to the roof, and when stopped off at the second story they shall be provided with an automatic drop stair from the second story to the ground, to be held up by a weight and wire cable when not in use. School buildings, opera houses, theatres and church buildings, also hospitals, blind and lunatic asylums and seminaries shall each have a fire escape built solid to the ground and at the bottom enclosed with heavy wire or elevator enclosure up to eight feet in height, with a wire or iron door with knobs on the inside so that it can not be opened from the outside. In no case shall a fire escape run past a window where it is practicable to avoid it. All fire escapes required by this act must be of the kind known as stationary fire escapes. All buildings heretofore erected shall be made to conform to the provisions of this act.

SEC. 2. No ladder fire escape shall hereafter be used, and the fire escapes herein provided for shall be a stair fire escape, built on an angle of not more than fifty-five degrees, with proper risers and treads and shall be constructed so as to be placed on a blank wall, where practicable, with balconies to reach the opening doors or windows, as the case may be, and with one or more landings in each story and enclosed on the sides with wire bank rail running three feet on the same angle as the stairs.

SEC. 3. All buildings three or more stories in height, used for manufacturing purposes, hotels, dormitories, schools, seminaries, hospitals, or asylums, shall have at least one fire escape for every twenty to fifty persons for whom working, sleeping or living accommodations are provided above the second story, and all public halls which provide seating room above the first or ground story shall have such a number of fire escapes as shall constitute one fire escape for every hundred persons, calculated on the seating capacity of the hall.

SEC. 4. All buildings hereafter erected in this State which shall come within the provisions of this law, shall, upon or before their completion, be provided with fire escapes of the kind and number and in the manner set forth in this law, and any violation of this section shall constitute a misdemeanor on the part of the owner of such building, punishable as provided in section five.

SEC. 5. The owner, proprietor, lessee or manager of a building which, under the terms of this act, is required to have one or more fire escapes, who shall neglect or refuse for the period of sixty days after this law takes effect to comply with its provisions, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not less than fifty nor more than two hundred dollars, or by imprisonment in the county or city jail not more than three months, or by both fine and imprisonment, and each day shall be deemed a separate offense.

SEC. 6. All acts and parts of acts in conflict herewith are hereby repealed. It is made the duty of all prosecuting attorneys in this State to institute and prosecute infractions of this law. Whenever it shall come to the knowledge of the chief of the fire department or commissioner of public buildings in any city or the sheriff in any county that any violation of this act has occurred, it shall be his duty to report the fact to the prosecuting attorney.

Approved March 27, 1901.

Hours of labor on public roads.

[Page 243.]

SECTION 9696v. It shall be the duty of the road overseer to require of each laborer a faithful performance of duty and to require him to do eight hours actual service each day.

SEC. 9696z. This act shall take effect from and after its passage.

Approved March 26, 1901.

NEBRASKA.

ACTS OF 1901.

CHAPTER 21.—*Examination, licensing, etc., of plumbers.*

SECTION 1. In all cities in the State of Nebraska, having a population of more than fifty thousand (50,000) inhabitants, there shall be a board for the examination of plumbers, of four (4) members, consisting of one member to be known as the chief health officer of the city, and one member to be known as the plumbing inspector of the city, one (1) journeymen plumbers, and one master plumber, all of whom shall be appointed by the mayor of said city, by and with the consent of the city council, the health officer and plumbing inspector to hold their office during the term of office of the mayor, and all of whom shall be residents of the city, and the inspector, journeymen, and master plumber, shall be licensed plumbers. All vacancies in said board may be filled by the mayor and council as above. The chief health officer and plumbing inspector, if such office exist in such cities, shall serve without additional compensation; and any of said board may be removed from office for cause, by the district court of the county in which such city is situated, and each of the board shall give bond in the sum of one thousand dollars ($1,000), conditioned according to law. The term of office of the journeymen and master plumber shall be for one (1) and two (2) years respectively, to be determined by the mayor at the time of appointing them.

SEC 2. The persons who compose the first plumbing board under this act, shall, within the 10 days after their appointments, meet in their respective city building or place designated by the city council, and organized by the selection of one of their number as chairman, and the plumbing inspector shall be the secretary of said board. It shall be the duty of the secretary to keep full, true and correct minutes and records of all licenses issued by it, together with their kinds and dates, and the names of the persons to whom issued, in books to be provided by such city, for that purpose, which books and records shall be, in all business hours, open for free inspection by all persons.

SEC. 3. The said board shall have power, and [it] shall be its duty, to adopt rules and regulations, not inconsistent with the laws of the State or the ordinances of the city, for the sanitary construction, alteration and inspection of plumbing and sewage connections and drains placed in, or in connection with, any and every building in such city, in which it will prescribe the kind and size of materials to be used in such plumbing, and the manner in which such work shall be done, which rules and regulations, except such as are adopted for its own convenience only, shall be approved by ordinance by the mayor and council of such city, and the said board shall have the power to amend or repeal its said rules and regulations, subject, except as relate to its own convenience only, to the approval of the mayor and council of such city. The said board shall have power to compel the owner or contractor to first submit the plans and specifications for plumbing that is to be placed in any building or adjoining

premises to be first submitted to and approved by said board before they shall be installed in such building or premises.

SEC. 4. The board shall fix stated times and places of meeting, which times shall not be less than once in every two weeks, and may be held oftener upon written call of the chairman of the board, and the board shall adopt rules for the examination, at such times and places, of all persons who desire a license to work at the construction or repairing of plumbing, within the said city.

SEC. 5. Any person, not already licensed as herein provided, desiring to do any plumbing, or to work at the business of plumbing, in any such city, shall make written application to the said board for examination for a license, which examination shall be made at the next meeting of the board, or at an adjourned meeting, and said board shall examine said applicant as to his practical knowledge of plumbing, house drainage, ventilation, and sanitation, which examination shall be practical as well as theoretical, and if the applicant has shown himself competent, the plumbing board shall cause its chairman and secretary to execute and deliver to the applicant a license authorizing him to do plumbing in such city.

SEC. 6. All original licenses may be renewed, and all renewal licenses may be renewed, by the board, at the dates of their expiration. Such renewal licenses shall be granted, without a reexamination, upon the written application of the licensee filed with the board and showing that his purposes and condition remain unchanged, unless it is made to appear by affidavit before the board that the applicant is no longer competent, or entitled to such renewal license, in which event the renewal license shall not be granted until the applicant has undergone the examination hereinbefore required.

SEC. 7. All original and renewal licenses shall be good for one year from their dates, provided that any license may be revoked by the board at any time upon a hearing upon sufficient written, sworn charges filed with the board showing the holder of the license to be then incompetent or guilty of a willful breach of the rules, regulations, or requirements of the board, or of the laws or ordinances relating thereto, or of other causes sufficient for the revoking of his license, of which charges and hearing the holder of such license shall have written notice.

SEC. 8. It shall be unlawful for any person to do any plumbing in any such city of this State, unless he holds a proper license.

SEC. 9. The fee for the original license of a journeyman plumber shall be $1. All renewal fees shall be fifty cents. All license fees shall be paid, prior to the execution and delivery of the license, to the treasurer of the school district within the city, for which the license was issued, to be used exclusively for the support of the common schools therein.

SEC. 10. The city plumbing inspector shall inspect all plumbing work in process of construction, alteration or repair, within his respective jurisdiction, and for which a permit either has or has not been granted, and shall report to said board all violations of any law, or ordinance, or rule, or regulation of the board, in connection with the plumbing work being done, and also shall perform such other appropriate duties as may be required of him by said board. If necessary, the mayor of the respective cities, by the consent of the council, shall employ one or more assistant inspectors to assist in the performance of the duties of the inspector, who shall be practical licensed plumbers.

SEC. 11. The inspector shall be required to stop any defective plumbing work, not being done in accordance with the requirements of the rules and regulations therefor of the board, and the plumbing board shall have the power to cause such defective or insufficient plumbing to be torn out and removed, if, after notice to the owner or plumber doing the work, the board shall find the work or any part thereof, to be really defective and insufficient.

SEC. 12. The appointment of the board shall be within thirty (30) days from the taking effect of this act, and shall be made annually, at the first meeting of the city council, in August of each year, except as provided in section one (1) of this act. And where such city has a chief health officer and plumbing inspector, they shall act as member of such board ex-officio, and shall receive no extra compensation; and where there are no such officers in such city, then on being appointed, they shall receive a salary of fifteen hundred (1,500) dollars each, for chief health officer and plumbing inspector.

SEC. 13. The assistant inspectors shall receive a salary of twelve hundred (1,200) dollars each. The members of the board, not ex-officio members, shall be paid five (5) dollars for each full days service, actually employed. No meeting of the said board shall at any time be held, except on call of the chief health officer, and no member of the board shall be paid to exceed the sum of two hundred ($200). All salaries to be paid out of the general fund of the city, where the board is located,

the same as other city offices are paid, and vouchers for the same shall be duly certified by the chairman and secretary of such board, to the city council.

SEC. 14. Any person violating any provisions of this act, or of any lawful ordinances, or rules and regulations, authorized by this act, shall be deemed guilty of a misdemeanor, and shall be fined not exceeding $50 nor less than $5 for each and every violation thereof; and if such persons hold a plumber's license he shall forfeit the same and it shall be void, and he shall not be entitled to another plumber's license for the space of one year after such forfeiture is declared against him by the board.

SEC. 15. All laws and acts and parts of acts of this State, in so far as any of their provisions are in conflict with the provisions of this act, be and the same hereby are repealed.

SEC. 16. Whereas, an emergency exists, this act shall take effect and be in force from and after its passage.

Approved March 29, 1901.

CHAPTER 48.—*Examination, licensing, etc., of barbers.*

SECTION 1. Chapter 53 of the Session Laws of the State of Nebraska of 1899, being "An act to establish a State barbers examining board, to regulate the practice of barbering in the State of Nebraska, and providing penalties for violations of the provisions of this act," be and the same is hereby repealed.

Approved March 30, 1901.

CHAPTER 51.—*Industrial School.*

SECTION 1. Chapter 75 of the Compiled Statutes of Nebraska shall be amended to read as follows: That the "State industrial school" for juvenile offenders, now located near Kearney, in the County of Buffalo, is hereby recognized and continued as a school for the retention, education, discipline, industrial training, and reformation of male juvenile offenders.

SEC. 3. (Instruction.) The boys committed to the school shall be instructed in the principles of morality and in such useful branches of knowledge as are taught in the public schools of the State. They shall also be instructed in the principles of the mechanical arts and such practical trades as are best suited to their age, strength, and capacity, and best adapted to secure them a livelihood after leaving the school.

ARTICLE II.

SECTION 1. The girl's industrial school for juvenile delinquents, now located near Geneva, in the county of Fillmore, is hereby recognized and continued as a school for the retention, education, discipline, industrial training, and reformation of female juvenile delinquents.

SEC. 2. (Instruction.) The girls committed to the school shall be instructed in the principles of morality, self-government, domestic duties and such other branches of knowledge as are taught in the public schools of the State. The board may further provide for instruction in such light, practical industries as may be best suited for their age, sex and capacity.

Approved March 29, 1901.

NEW JERSEY.

ACTS OF 1901.

CHAPTER 74.—*Attachments—Exemption from execution.*

SECTION 36. Household goods and furniture not exceeding in value two hundred dollars of a debtor having a family residing in this State, and against whom an attachment has issued, are reserved and exempted for the use of the family and shall not be attached, except for a debt incurred in the purchase of the same.

Approved March 20, 1901.

NORTH CAROLINA.

ACTS OF 1901.

CHAPTER 25.—*Legal holiday—Labor day.*

SECTION 1. Chapter 410 of the Public Laws of 1899 is hereby repealed.

SEC. 2. Section 3784 of the code [is] amended by inserting at the end of line four of said section the following words: "And the first Monday in September."

SEC. 3. This act shall be in force from and after its ratification.

Ratified this 23d day of January, A. D. 1901.

CHAPTER 682.—*Employment of labor—Previous contract.*

SECTION 1. Any person, firm or corporation who shall knowingly hire, employ, harbor or detain in his own service any servant, employee, or wage hand of any other person, firm or corporation, who shall have contracted in writing, or orally, for a fixed period of time to serve his employer, and who shall have left the service of his employer, in violation of his contract, the person, firm or corporation so offending shall be guilty of a misdemeanor, and fined or imprisoned, or both, at the discretion of the court, and shall be civilly liable in damages to the party so aggrieved.

SEC. 2. This act shall apply to the following counties: Beaufort, Edgecombe, Person and Pitt, Washington and Warren, Vance, Pender, Halifax, Guilford, Granville, Hertford and Caswell.

SEC. 3. This act shall be in force from and after its ratification.

Ratified this the 14th day of March, A. D. 1901.

CHAPTER 743.—*Protection of street railway employees—Vestibule fronts.*

SECTION 1. All city and street passenger railway companies be and they are hereby required to use vestibule fronts, of frontage not less than four feet, on all passenger cars run, manipulated or transported by them on their lines during the latter half of the month of November and during the months of December, January, February and March of each year: *Provided*, That said companies shall not be required to close the sides of said vestibules: *And provided further*, That said companies may use cars without vestibule fronts in cases of temporary emergency in suitable weather, not to exceed four days in any one month within the period herein prescribed for use of vestibule fronts. Any city and street railway company refusing or failing to comply with the requirements of this section shall be subject to a fine of not less than ten dollars or more than one hundred dollars for each day. The North Carolina corporation commission is hereby authorized to make exemptions from the provisions of this section in such cases as in their judgment the enforcement of this section is unnecessary.

SEC. 3. This act shall be in force from and after the first day of April, 1901.

Ratified this the 15th day of March, A. D. 1901.

LEADING ARTICLES IN PAST NUMBERS OF THE BULLETIN.

No. 1. Private and public debt in the United States, by George K. Holmes.
Employer and employee under the common law, by V. H. Olmsted and S. D. Fessenden.
No. 2. The poor colonies of Holland, by J. Howard Gore, Ph. D.
The industrial revolution in Japan, by William Eleroy Curtis.
Notes concerning the money of the U. S. and other countries, by W. C. Hunt.
The wealth and receipts and expenses of the U. S., by W. M. Steuart.
No. 3. Industrial communities: Coal Mining Co. of Anzin, by W. F. Willoughby.
No. 4. Industrial communities: Coal Mining Co. of Blanzy, by W. F. Willoughby.
The sweating system, by Henry White.
No. 5. Convict labor.
Industrial communities: Krupp Iron and Steel Works, by W. F. Willoughby.
No. 6. Industrial communities: Familistère Society of Guise, by W. F. Willoughby.
Cooperative distribution, by Edward W. Bemis, Ph. D.
No. 7. Industrial communities: Various communities, by W. F. Willoughby.
Rates of wages paid under public and private contract, by Ethelbert Stewart.
No. 8. Conciliation and arbitration in the boot and shoe industry, by T. A. Carroll.
Railway relief departments, by Emory R. Johnson, Ph. D.
No. 9. The padrone system and padrone banks, by John Koren.
The Dutch Society for General Welfare, by J. Howard Gore, Ph. D.
No. 10. Condition of the Negro in various cities.
Building and loan associations.
No. 11. Workers at gainful occupations at censuses of 1870, 1880, and 1890, by W. C. Hunt.
Public baths in Europe, by Edward Mussey Hartwell, Ph. D., M. D.
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No. 13. The anthracite mine laborers, by G. O. Virtue, Ph. D.
No. 14. The Negroes of Farmville, Va.: A social study, by W. E. B. Du Bois, Ph. D.
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No. 15. Boarding homes and clubs for working women, by Mary S. Fergusson.
The trade-union label, by John Graham Brooks.
No. 16. Alaskan gold fields and opportunities for capital and labor, by S. C. Dunham.
No. 17. Brotherhood relief and insurance of railway employees, by E. R. Johnson, Ph. D.
The nations of Antwerp, by J. Howard Gore, Ph. D.
No. 18. Wages in the United States and Europe, 1870 to 1898.
No. 19. Alaskan gold fields and opportunities for capital and labor, by S. C. Dunham.
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No. 20. Condition of railway labor in Europe, by Walter E. Weyl, Ph. D.
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No. 23. Attitude of women's clubs, etc., toward social economics, by Ellen M. Henrotin.
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No. 24. Statistics of cities.
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The workmen's compensation act of Holland.
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No. 36. Statistics of cities.
Statistics of Honolulu, H. I.
No. 37. Railway employees in the United States, by Samuel McCune Lindsay, Ph. D.
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No. 38. Labor conditions in Mexico, by Walter E. Weyl, Ph. D.
The Negroes of Cinclare Central Factory and Calumet Plantation, La., by J. Bradford Laws.
No. 39. Course of wholesale prices, 1890 to 1901.

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